



# **A Post Implementation Review Report of Tobacco Legislation Coming into Force Between 2010-2015**

January 2021

CP 344



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Presented to Parliament  
by the Secretary of State for Health and Social Care  
by Command of Her Majesty

January 2021

CP 344



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# 1. Executive summary

## Introduction

Smoking remains one of the largest causes of preventable deaths and health inequalities in England. Over recent years, a range of legislation has been introduced to discourage young people from taking up smoking, encouraging existing smokers to quit and to protect others from the harmful effects of cigarette smoke. This has included a curb on advertising, establishing smoke-free places, introduction of prominent graphic health warnings and standardised packaging of tobacco products, a ban on proxy purchasing and of smoking in cars with children.

The UK now has a suite of tobacco control legislation which is amongst the most comprehensive in the world and smoking rates have seen a steady decline over the last 20 years.

The Government is required to conduct and publish reviews of certain legislation when it is a statutory requirement stipulated within the review clause(s) of the legislation in question.

These reviews are called Post Implementation Reviews (PIR).

This report presents the evidence and findings of PIRs for the following five pieces of legislation:

1. The Tobacco Advertising and Promotion (Display) (England) Regulations 2010
2. The Tobacco Advertising and Promotion (Specialist Tobacconists) (England) Regulations 2010
3. The Tobacco Advertising and Promotion (Display of Prices) (England) Regulations 2010
4. The Smoke-free (Private Vehicles) Regulations 2015
5. The Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations 2015

## Methodology

This review has been conducted in accordance with the Regulatory Policy Committee's (RPC) guidance on PIRs. Summary reports on the review of the regulations above have been produced as per RPC's templates. Three templates have been completed: the first combines regulations 1, 2 and 3 above. The second covers regulation 4 and the third is for regulation 5. **These finalised templates can be found in Annex 2.** Detailed results of the review covering all the five regulations are presented in this report. Justification for combining regulations 1, 2, and 3 in one reporting template has been provided in Chapter 5. In this report we have used the term "display regulations" when referring to regulations 1, 2 and 3 combined.

Throughout the templates and the report, outcomes for both the individual and, where relevant, collective effects of the five regulations have been fully assessed.

Other tobacco legislation has been or will be reviewed at other times, and as such is out-of-scope for the purposes of this document. However, it is recognised that all smoking interventions interact to some degree. Some discussion of wider policies is essential to properly understand the evidence relating to the legislation considered in this review, and this report includes such wider analysis. The review also puts into consideration that these regulations

interact with primary legislation such as the Tobacco Advertising and Promotion Act 2002, Health Act 2002 and Children and Families Act 2014.

The evidence used to review these regulations included key indicator data, commissioned evidence, published peer reviewed evidence and the response to the consultation process and interviews with businesses conducted by The King's Fund.

## Findings

### Display ban, specialist tobacconists and display of prices

- Peer reviewed and commissioned studies found consistent evidence of reductions in prevalence of smoking related to point of sale tobacco display bans. This was supported by evidence showing a reduction in smoking susceptibility linked to decreases in brand awareness. A range of international evidence also supported the positive effects of point of sale display bans.
- Key data indicators, including youth and adult smoking prevalence, show a clear decreasing trend, since the display exemption regulations were implemented, alongside an increase in quit attempts. This points to a substantial increase in health benefits over and above the costs of this legislation.
- The one-off costs of implementing the point of sale display ban exemptions were found to be broadly in line with those anticipated in the original Impact Assessment (IA), with some evidence to suggest that the costs incurred by small retailers may have been lower than expected. Recurring costs were slightly higher than those estimated in the original IA, but within £5million of the IA figures in each year from 2015. The estimated effect on small businesses in terms of loss of profits was found to be negligible.
- Most respondents to the public consultation reported that the objectives of the ban on displaying tobacco had not been met, but without providing evidence for this view. Where substantive evidence was provided there was clear support that the objectives of the legislation had been met, particularly from Public Health bodies, Non-Governmental Organisations (NGOs) and academics. Furthermore, there was no evidence of any unintended consequences of the display ban, with respondents reporting only minor disruption associated with waiting times and restocking as assessed in the original IA. Levels of compliance indicate widespread acceptance of the display exemption regulations.
- Specific evidence on the effect of the regulations on the display of prices was limited to consultation responses. As above, support for restricted price display came from Public Health bodies, NGOs and academics, who stated that prices remained an important marketing tool for tobacco companies and display of them should be restricted. However, most respondents reported that restriction on display of prices did not support the original objectives.
- The Department of Health and Social Care (DHSC) assessed whether there is a less burdensome way of implementing the ban on display of products and prices. It found no evidence to suggest alternative forms of complying with the ban. Businesses did not report any undue burden imposed on them beyond what was originally anticipated.
- There were no viable alternatives presented in consultations or other responses to suggest replacing or removing the legislation. Some responses suggested areas where the legislation could be relaxed or strengthened, but DHSC considers there would be further costs to business associated with these options, while the additional health benefits are unclear.

## Smoke-free vehicles

- A commissioned report showed a 72% reduction in self-reported exposure to tobacco smoke among children following the implementation of the regulations. Key indicator data, such as self-reported exposure amongst 11-15-year olds, also show a decrease.
- Consultation responses showed broad support for this. However, there is evidence that formal enforcement of the prohibition is very low in practice, with few recorded Fixed Penalty Notices. It is therefore likely that the existence of the legislation is providing awareness of the risks of second-hand smoke (SHS) and has a deterrent effect.

## Nicotine Inhaling Products (NIPs)

- E-cigarette smoking prevalence amongst 11-15-year olds has increased only slightly since 2014, indicating that the legislation has served to check growth in e-cigarette use. Adult prevalence over the same period has continued to increase.
- There is no evidence of significant costs to business from this legislation.
- Consultation responses from health-related NGOs, public sector bodies and businesses were generally supportive of this legislation.

## Conclusions and recommendations

Considering the range of evidence, including the peer reviewed studies, commissioned research and the key indicator data, it is the DHSC view that the ban on **point of sale tobacco display** has met the original objectives by contributing to an important reduction in smoking prevalence amongst young people and adults.

Consultation responses were mainly negative in terms of whether the legislation had achieved the objectives, but the legislation was largely supported by major stakeholders, including individuals, Public Health bodies, NGOs and academics and in cases where supporting evidence was provided.

Given that costs of implementation are already incurred and retailers, to a large extent, accepted the point of sale exemptions, DHSC did not find evidence to support modifying the exemptions in the regulations to the display ban or changing the restrictions on how prices are displayed. In particular, any relaxation of the display and price exemptions will result in a detrimental effect and a loss of health benefits.

For the **smoke-free vehicles** regulations, the evidence indicates that the original objectives have been met by reducing the number of children regularly exposed to second-hand smoke in private vehicles. For the **Nicotine Inhaling Products (NIPs)** regulations, we had limited evidence but enough to enable us to conclude that the NIPs legislation has also achieved its original objective by limiting increases in use of NIPs amongst young people.

DHSC has received a fit for purpose opinion from the Regulatory Policy Committee (RPC) on each of the Post Implementation Reviews of the regulations which are available at: <https://www.gov.uk/government/collections/rpc-opinions>.

Given the evidence and findings from these reviews and the RPC's independent opinion, DHSC has decided that the regulations can remain in force and the Government will be maintaining these regulations as they are.

## 2. Aim of the Post Implementation Review

### Aims

The secondary legislation covered by this PIR, with the exception of The Tobacco Advertising and Promotion (Display of Prices) (England) Regulations 2010, contains review clauses which require the Secretary of State to carry out a review of the provisions in the legislation, set out the conclusions of the review in a report and publish the report.

The overall aim of this review was to:

- (a) Set out the objectives intended to be achieved by the regulatory system,
- (b) Assess the extent to which those objectives have been achieved, and
- (c) Assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

All tobacco legislation covered in this report was enacted to protect the public's health, but both their health and economic impact were reviewed in accordance with the Regulatory Policy Committee's (RPC) guidance on PIRs.

### Scope and presentation

This report addresses only the aims above and should be used in conjunction with, and as additional evidence for, the formal PIR reports which are included as Annex 2. The report does not address any regulatory gaps beyond the original objective of the regulation being reviewed. Emerging policy considerations, public opinion and business environments outside the remit of the regulation are also outside the remit of the review. Proposals and concepts for regulatory considerations to widen the remit of these regulations are also outside the scope.

The report is presented in 6 chapters. Chapter 1 is an executive summary, Chapter 2 presents the aims of the review. In Chapter 3 we give background to each regulation being reviewed. Chapter 4 is a methodological account of how the review was conducted. We discuss the results in Chapter 5 and finish off the report with conclusions and recommendations in Chapter 6. All evidence presented has been fully referenced and annotated at the end of each page where that evidence appears.

The report was written by officials at DHSC. Tobacco policy officials led the overall review including planning, liaison with Other Government Departments and Devolved Administrations, RPC, Ministers and Parliament. The DHSC analytical team led the analysis, liaison with external and independent experts, considered the evidence and drew conclusions from all the sources.



# 3. Regulation objectives

While the overarching policy objective of all tobacco control legislation is to improve public health, each piece of legislation also has specific aims and objectives.

## The Tobacco Advertising and Promotion (Display) (England) Regulations 2010

Section 7A of the Tobacco Advertising and Promotion Act 2002 (TAPA) prohibits tobacco display, making it an offence to display tobacco products in the course of business.

The Tobacco Advertising and Promotion (Display) (England) Regulations 2010 provide exemptions so that shops can still sell tobacco. The regulations set out 5 specific exemptions for when the display of tobacco will not be an offence:

1. If the display of tobacco products, in a storage unit, is requested by an individual aged 18 or over and lasts no longer than is necessary to remove the requested product from the storage unit.
2. If the display of tobacco products, other than in a storage unit, is requested by an individual aged 18 or over and lasts no longer than the requested display.
3. If the display of tobacco products is within a bulk tobacconist and the display is:
  - a. In a part of the shop containing tobacco products and smoking accessories only, and is not visible from outside of the tobacco area;
  - b. A notice displaying the statement *“It is illegal to sell tobacco products to anyone under the age of 18”* is exhibited at the entrance to the tobacco area, and
  - c. The shop is designed so customers wishing to buy products other than tobacco products and smoking accessories are not required or encouraged to pass through the tobacco area.
4. If the display of tobacco products is the direct result of a person restocking a storage unit and lasts no longer than is necessary to place products in the storage unit.
5. If the display of tobacco products is requested by:
  - a. A duly authorised officer of an enforcement authority
  - b. A constable, or
  - c. An officer of Revenue and Customs acting in the course of their duty.

The regulations came into force on 6 April 2012 for large shops other than bulk tobacconists and for all shops on 6 April 2015. They permit the trade of tobacco products to continue but prevent them from being used as promotional tools.

The legislation applies in England only.

The full legislation is available at: <http://www.legislation.gov.uk/ukxi/2010/445/contents/made>

## **Objectives**

**The aim of the Tobacco Advertising and Promotion Act 2002 is to:**

- Protect children and young people from the health harms of smoking.
- Create a more supportive environment for adults who are trying to quit smoking by implementing the prohibition of tobacco product displays.

The Tobacco Advertising and Promotion (Display) (England) Regulations 2010 recognise that retailers need to be able to serve customers and restock products, and that staff need to know where products are kept.

## **Commitment to review**

The Tobacco Advertising and Promotion (Display) (England) Regulations 2010 contain a provision requiring the Secretary of State to undertake a mandatory review, assessing whether their objectives remain appropriate and may be achieved in a less burdensome way.

The first report must be published before the end of the period of 5 years beginning with 1 April 2015.

# The Tobacco Advertising and Promotion (Specialist Tobacconists) (England) Regulations 2010

Section 2 of the Tobacco Advertising and Promotion Act 2002 (TAPA) prohibits tobacco advertising and section 7A prohibits the display of tobacco products. It is an offence in the course of a business to publish tobacco advertisement in the United Kingdom.

These regulations provide exemptions from TAPA for specialist tobacconists in respect of the general prohibition on advertising and display of tobacco products. They allow tobacco products to be displayed within specialist tobacconists as long as they are not visible from outside the shops. Additionally, the legislation permits tobacco advertising provided it is inside the specialist tobacconist shop and complies with prescribed conditions such as the inclusion of a specified health warning.

The regulations apply to England only.

Full legislation is available at: <http://www.legislation.gov.uk/ukSI/2010/446/contents/made>

## Objectives

The Tobacco Advertising and Promotion (Specialist Tobacconists) (England) Regulations 2010 are part of a wider legislative framework, namely the Tobacco Advertising and Promotion Act 2002.

### The aims of the regulations are to:

- Protect children and young people from the health harms of smoking.
- Create a more supportive environment for adults who are trying to quit smoking by implementing the prohibition of tobacco product displays.

These regulations provide an exemption, with restrictions, for specialist tobacconists allowing them to display tobacco products within their stores. This is applied in recognition of the fact that full removal of display within such an environment would be highly burdensome given the specialist nature of this business and that young people are not commonly customers of such traders.

## Commitment to review

The Tobacco Advertising and Promotion (Specialist Tobacconists) (England) Regulations 2010 contain a provision requiring the Secretary of State to undertake a mandatory review, assessing whether the objectives remain appropriate and may be achieved in a less burdensome way.

The first report must be published before the end of the period of 5 years beginning with 1 April 2015.

# The Tobacco Advertising and Promotion (Display of Prices) (England) Regulations 2010

Section 7C of the Tobacco Advertising and Promotion Act 2002 (TAPA) allows for regulations to impose requirements in relation to the display of prices of tobacco products; making it an offence to display prices of tobacco products in breach of any requirement in the regulations.

These regulations impose requirements on the display of prices of tobacco products with exemptions for specialist and bulk tobacconists

These regulations came into force on 6 April 2015.

The regulations permit only three types of tobacco price displays within retailers:

- 1) Poster style lists (up to A3 in size) which can be permanently on show but must not exceed 1,250sq centimetres in size;
- 2) A list including pictures of products, which must not be left on permanent show, but can be shown to any customer aged 18 or over who asks for information on tobacco products sold; and
- 3) Price labels, which can be placed on shelving, storage units or tobacco jars. One price label is permitted for each product either on the covered shelf where the product is stored or on the front of the storage unit.

The full legislation is available at: <http://www.legislation.gov.uk/ukxi/2010/863/contents/made>

## Objectives

- To protect children and young people from the harms of smoking.
- To create a supportive environment for adults who are trying to quit smoking by ensuring that price lists and labels cannot be exploited as forms of tobacco promotion.

## Commitment to review

There is no statutory obligation to review The Tobacco Advertising and Promotion (Display of Prices) (England) Regulations 2015. However, we have included them in this report as the original Impact Assessment estimated a net annualised impact to business to be in excess of £5million, which meets the threshold test for the Regulatory Policy committee (RPC) scrutiny of post implementation review.

## The Smoke-free (Private Vehicles) Regulations 2015

The purpose of these regulations is to make private vehicles “smoke-free” places when children under the age of 18 are present.

Under the Health Act 2006 premises open to the public are required to be “smoke-free” at all times.

A person who smokes on a smoke-free premise commits an offence as does someone who fails to prevent smoking in a smoke-free place.

These regulations make it an offence under the Health Act 2006 for:

- A person to smoke in a private vehicle when someone under the age of 18 is present.
- A driver not to stop a person smoking when someone under the age of 18 is present.

The regulations are thought to have minimal impact on business. Police Authorities are the designated enforcement authority, with the power to issue Fixed Penalty Notices (FPN) to anyone found to be non-compliant with the law.

The regulations came into force as of 1 October 2015 and apply in England. Regulation 5, regarding penalties and discounted amounts, also applies in Wales.

The full legislation is available at: <https://www.legislation.gov.uk/ukSI/2015/286/contents/made>

### **Objective**

- To prevent adverse effects of second-hand smoke (SHS) on children in private vehicles, where the level of SHS can be significantly more concentrated than elsewhere. Intervention was deemed necessary as children are unable to exert their choice to leave the vehicle unlike adults.

### **Commitment to review**

The Smoke-free (Private Vehicles) Regulations 2015 contain a provision requiring the Secretary of State to undertake a mandatory review, assessing whether the objectives remain appropriate and may be achieved in a less burdensome way.

The review must be carried out within 5 years of 1 October 2015.

## The Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations 2015

The regulations prohibit both the sale of Nicotine Inhaling Products (NIPs), including e-cigarettes, to under 18's and the purchase of these products on behalf of a minor (proxy purchasing).

These regulations came into force as of 26 March 2015 for proxy purchasing and 1 October 2015 for all other provisions.

The full legislation is available at:

<https://www.legislation.gov.uk/ukxi/2015/895/contents/made>

These regulations apply in England and Wales.

### Objectives

- To limit the sale of nicotine inhaling products (NIPs) such as electronic cigarettes (and related products including refill cartridges and nicotine liquids) to adults only, with only certain limited exceptions for medicinal products.
- To limit the availability of NIPs to under 18's, restricting the scope for young people to become addicted to nicotine, minimising potential gateway effect into smoking.

### Commitment to review

The Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations 2015 contain a provision requiring the Secretary of State to undertake a mandatory review, assessing whether the objectives remain appropriate and may be achieved in a less burdensome way.

The review must be carried out within 5 years of 1 October 2015.

# 4. How the review was conducted

## Methodology

This part of the report sets out the methods used to determine the extent to which the regulations have achieved their original objectives and whether similar outcomes could be achieved in a less burdensome manner, i.e. within a system that imposes less regulation.

Conducted in collaboration with The Better Regulation Authority and Regulatory Policy Committee, in accordance with current Government advice, this report utilises a wide evidence base from a variety of sources including stakeholder consultations, peer reviewed evidence, other publicly available data and the original Impact Assessments.

Given the breadth of information sources used, consideration has been given to the strengths and quality of each data source. This includes assessing the accuracy of claims made by stakeholders within the consultation and interview process. In particular DHSC considers the independence of a source, the authority or credentials of its authors, its peer review status and the consistency of findings in comparison to the body of evidence as a whole.

The statutory obligation to review legislation requires any review to be completed within 5 years of the regulations coming into force, limiting the extent of the data and evidence analysis. However, data based on a “before and after” analysis may use older data as a basis for comparison.

As the display ban legislation was introduced at different times for large (April 2012) and small (April 2015) shops, the period of interest will be longer for this regulation.

An outline of the various evidence measures is considered below.

## Commissioned studies

DHSC commissioned independent research from the UK Centre for Tobacco and Alcohol Studies; a consortium of 13 universities (12 in the UK and 1 in New Zealand). From the consortium, the Universities of Nottingham and Sheffield led on the research informing this review.

Their study focussed on the impact of legislation and policy implemented between 2003 and 2015, those affected, and the effects on smoking behaviours and associated ill-health.

Statistical methods were applied to publicly available data to understand of which measures were most effective on a range of indicators such as prevalence, quit attempts and smoking consumption. Further information regarding this study is contained in Annex 1.

Further qualitative research was commissioned by DHSC to explore, in more detail, the effects of the regulations on small businesses. This research was carried out independently by The King's Fund and covers the overall effects of the implementation of the regulations on business, including: economic losses or gains, demand for alternative products and impacts on the sale of tobacco to young people.

## Peer reviewed evidence

In addition to the commissioned research, DHSC also considered findings of studies undertaken in England (and Wales where applicable) following the implementation of the various sets of regulations. Given the high-profile nature of the display ban there is a larger body of evidence for this set of regulations in comparison to the others. The available evidence for each piece of legislation is profiled in the results section.

A range of publicly available data sources were used to assess the impact of the legislation and the wider tobacco control regulatory system on several key indicators. For example, to assess the impact on youth smoking prevalence we used the NHS Digital Smoking, Drinking and Drugs Use among Young People survey. All data sources used are outlined in the 'Indicators Considered' section below.

## Consultations

The public consultations conducted by DHSC which ran from 22 July to 15 September 2019 form an important part of the evidence base for the review. Consultations were designed to focus on the three sets of regulations covered by this Post Implementation Review and received a total of 458 responses.

The consultation sought to gather public views and supporting information about the impact of the implementation of the legislation, providing various stakeholder groups opportunity to feedback on the effectiveness of the legislation in achieving its objectives.

Analysis of the consultation responses outlined the proportion of respondents who answered *Yes/No/Don't Know* to the questions (e.g. "Do you think the display ban on tobacco has helped to reduce the number of children and young people smoking?"). Crucially, the consultation offered opportunities for respondents to provide specific evidence alongside a free-text box to provide further detail(s) to support their response. These free-text fields were considered individually and coded into specific 'tags' or themes which were summarised to draw general conclusions. Evidence given to support the answer was used to determine the validity of the results, with those not submitting further evidence being analysed separately. This report serves as the consultation response, but a more detailed report of the consultation analysis is available on request.

## Limitations of the consultation results

Results from the consultations should be considered in the context of the consultation process and the data supplied by stakeholders.

- The consultation was commissioned to review the legislation through the PIR process. It was designed to include those who wished to express a view to the Government and will therefore not be representative of the whole England (and Wales where relevant).
- It should be noted that DHSC received views from both individuals and organisations. All contributions were given equal consideration. For example, assuming supporting evidence was provided, a response from one newsagent was given equal weight to that of the Federation of Independent Retailers; a trade body with a membership of more than 15,000 UK retailers.
- Ratings of regulation impact should be treated with caution. Many individuals expressed a personal opinion but did not provide evidence to support their view. In contrast, Public



Health organisations, tobacco manufacturers, trade bodies and retailers provided evidence from a variety of sources to support their views. Therefore, we recommend readers give greater consideration to those results where supporting evidence was provided.

In reviewing consultation responses, no further judgements were made about the credibility of respondents. All analysis has been based around attempts to classify responses into broader themes.

## Indicators considered

The key questions for the PIRs were:

- To what extent have policy objectives been achieved?
  - the extent to which expected / additional benefits were achieved
  - the extent to which expected / additional costs were incurred
- Were there any unintended consequences?
- Could these objectives be achieved in another way involving less onerous regulatory provision to reduce the burden on businesses?

In the specific context of the review of the tobacco regulations, the impact is typically divided into three stages:

- Short-term impact: typically costs associated with implementation
- Medium-term impact: typically reductions in smoking prevalence and/or exposure to smoking
- Long-term impact: typically a health gain resulting from those reductions.

Five years is insufficient for the full long-term impacts, such as reductions in lung cancer, to be seen. Measuring the actual effects on such broad and longer-term measures is thus not yet possible. We used a more practical approach for this PIR, concentrating on the short and medium-term impacts, together with the other key questions identified above. For the short and medium-term indicators **we have used data up to 2018**, as to include data beyond this point would impinge on the timing of subsequent regulations.

The following indicators were considered and discussed in detail for each piece of legislation in the results section:

## Health indicators

The results section contains a review of the various publicly available metrics (supplied by ONS, NHS Digital, PHE and others) that track smoking prevalence and consumption in England (and Wales where applicable) for youths and adults. This also includes related data on quit attempts, e-cigarette use and exposure to second-hand smoke where applicable to each regulation. Where appropriate the effect of any improvements to health outcomes were also considered. To estimate the effects, the following data sources have been used as evidence:

- The biennial publication *'Smoking, Drinking, and Drug use among Young people in England'* which surveys over 12,000 young people across England. This survey produces several indicators that generate a national snapshot of the smoking prevalence in young people. The three chosen indicators for evidence are the numbers of regular smokers, occasional smokers, and ever smokers. The survey also collects data on the context of young smokers: how they obtain cigarettes, where they see cigarettes, etc.
- The quarterly publication *'Statistics on NHS Stop Smoking Services in England'* contains information on people who engaged with the NHS to help them quit smoking. The relevant indicators included are: the number of people who set a quit date, the number of self-reported quitters, and the number of carbon monoxide (CO) validated quitters.
- The quarterly data presented by Public Health England (PHE) in the *'Local Tobacco Control Profiles'* (LTCP) contains further indicators such as adult smoking prevalence and regional breakdowns of adult prevalence. These indicators also informed the PIR as supplementary evidence.
- ONS *'Adult smoking habits in the UK'* is published annually and presents data on smoking and e-cigarette prevalence for those aged 16+. The breakdown into constituent countries was helpful as some policies were implemented in the constituencies differently or at different times.
- *'The Health Survey for England'* (HSE) monitors trends in the nation's health and care. It provides information about adults aged 16 and over and children aged 0 to 15 living in private households in England. The survey was used to monitor the prevalence of risk factors and health related behaviours, such as smoking as well as adult's intention to quit.
- *'The Smoking Toolkit Study'* is a monthly data set published by UCL that tracks a variety of smoking and e-cigarette measures across both adults and young people. The sample sizes are smaller than other data sources, but the frequency helps confirm annual trends seen in other publications.

While these data sources form a large evidence base, it is difficult to attribute changes in trends to any single event or intervention. There are many factors which may influence the achievement of the objectives outlined in this review. This has been discussed in the results section.

Where appropriate, this report discusses the effect of the implementation of the regulations on medium and longer-term health indicators to see if there have been any changes to health outcomes. However, it should be noted that we were not expecting to see or assess the effect on health outcomes beyond the five-year period covered by this review.

## **Economic indicators**

This section includes a detailed review of the assumptions made in the original impact assessments for each regulation, focussing on both anticipated costs to businesses and the health benefits. Due to the difficulty in attributing falling prevalence to specific regulations, scenarios were used to consider potential impacts.

## **Public benefit indicators**

This report also assesses whether there have been any wider public benefits observed following the implementation of the regulations, including changes in attitudes to smoking and changes in productivity due to lower smoking prevalence.

# 5. Results of the review

As outlined above, this post implementation review process covers five sets of regulations. Due to the difficulties inherent in separating out the effects of individual regulations, results have been combined for the three regulations related to display and promotion of tobacco for the quantitative key indicator analysis, an approach agreed and carried out in consultation with the RPC. Where possible, the different legislations were assessed and analysed individually, for example, on the consultation where it was important to assess whether the objectives could be achieved in another way involving less onerous regulatory provision.

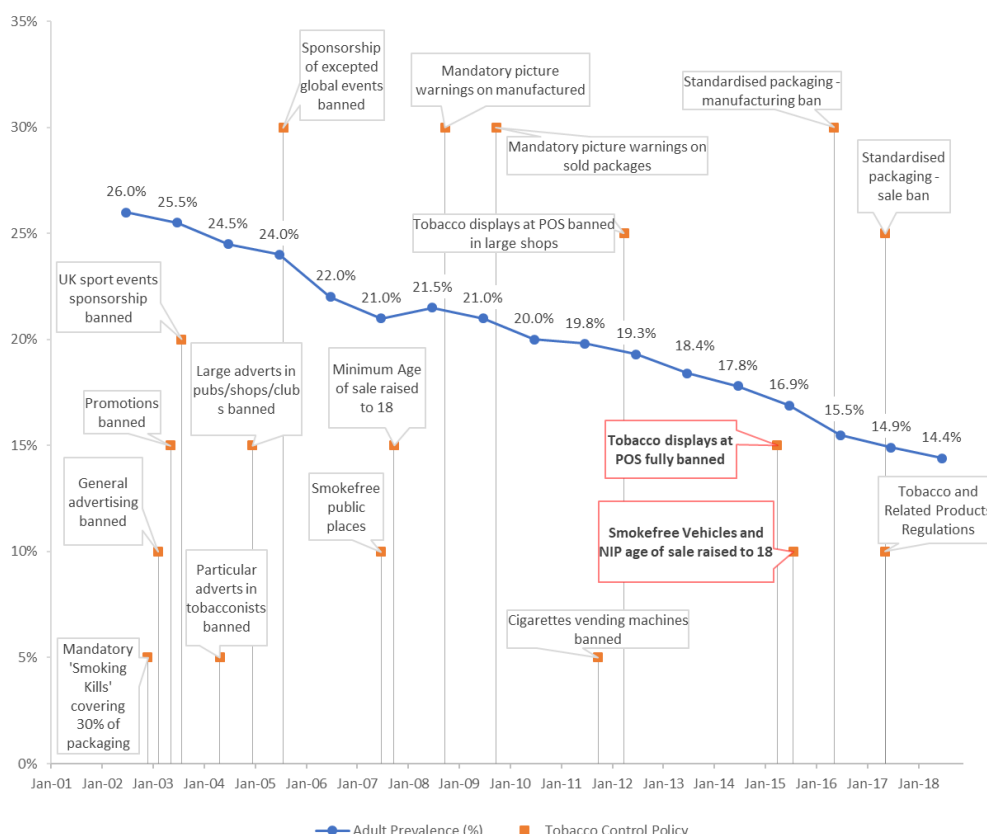
## The context: recent approach to tobacco control in England & Wales

In the last 20 years there has been a whole suite of tobacco control policies implemented to prevent uptake of smoking in young people and support existing smokers to quit.

In July 2017 the Government published 'Towards a Smoke free Generation', the Tobacco Control Plan for 2017-2022. The plan identifies specific areas of focus including targets to reduce prevalence of 15-year olds who smoke, as well as smoking prevalence among adults. These targets will be influenced by the regulations covered in this review.

The range of measures that have contributed to the decline in smoking are shown in Figure 1 below along with the level of adult smoking prevalence.

Figure 1: England Adult smoking prevalence from 2001 to 2018, with the tobacco control measures implemented during the same time period (Source: Annual Population Survey)

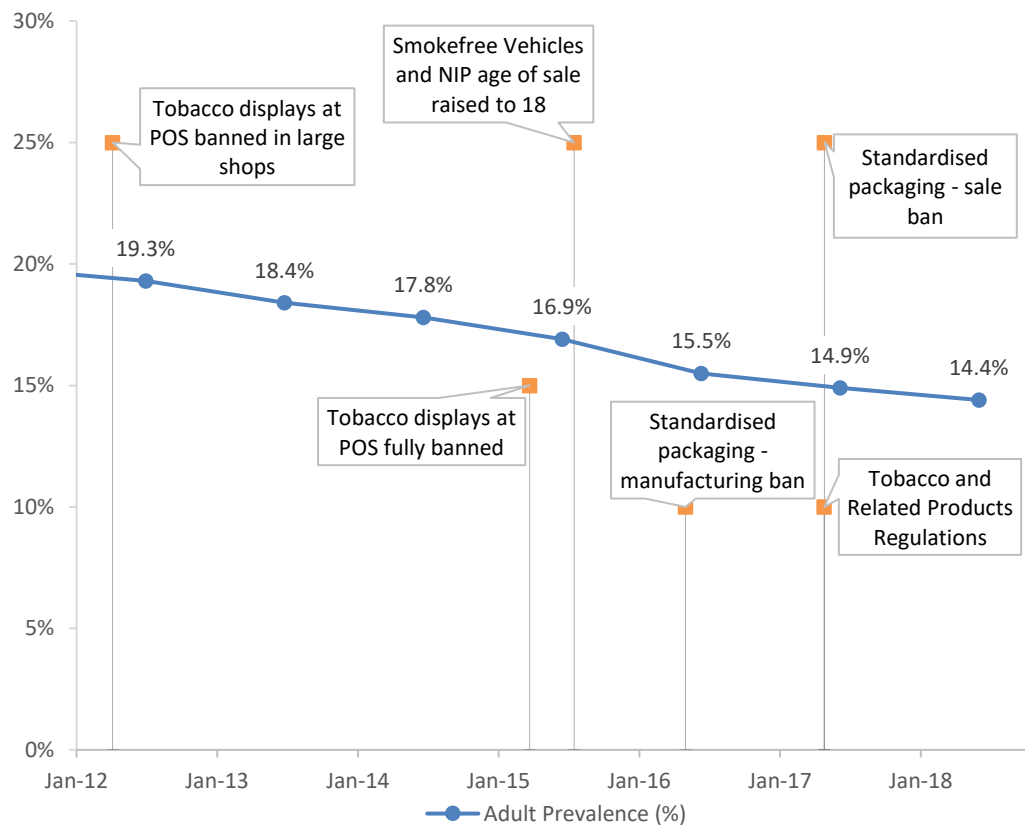


The latest figure for smoking prevalence, published in 2019, estimated that adult smoking prevalence in 2018 was 14.4%. Given the suite of regulations shown in Figure 1 above, in addition to other factors that may influence smoking prevalence rates such as tax increases and e-cigarette uptake, it is difficult to fully understand the impact of individual schemes. However,

the sections below discuss and clarify the overall impacts using a full range of available evidence.

Figure 2 shows a more focused view of recent years. This period includes only the regulations subject to this Post Implementation Review and those up for review in 2021. Since the display ban in 2012, adult smoking prevalence has dropped almost 5 percentage points; an average drop in prevalence of around 0.82 percentage points per year over the period 2012 to 2018. The impact of the display ban on this trend will be discussed in detail in the evidence and analysis section below.

Figure 2: England Adult smoking prevalence from 2012 to 2018, and the tobacco control measures implemented over the same period. (Source: Annual Population Survey)



# Tobacco Advertising and Promotion (Display) (England) Regulations 2010 (incorporating Specialist Tobacconists and Display of prices Regulations)

## **Background to legislation**

A 2008 report '*Consultation on the future of tobacco control*' considered whether further controls on the display of tobacco were required to reduce unsolicited tobacco promotion to children and people attempting to quit. This was based on evidence showing tobacco displays prompt impulse purchasing, thus encouraging young people to start and undermining quit attempts. The consultation showed that there was a clear preference for controls on tobacco display, with 84% of respondents favouring stricter controls. With public opinion in favour, the Government prepared regulations, introducing them in 2010 using primary powers from the TAPA 2002.

## **Evidence and analysis**

This section covers the quantitative and qualitative evidence available to assess the impact of the three Tobacco Advertising and Display pieces of legislation. The evidence includes commissioned studies by DHSC, a review of the peer-reviewed evidence and key indicator data, plus qualitative responses to the consultation and commissioned interviews.

These sources will cover the key questions for the review, including the extent to which objectives have been met, whether there were any unintended consequences and whether objectives could be achieved in another way involving less onerous regulatory provision.

## **Findings of commissioned studies**

This section includes discussion of research commissioned by DHSC to provide a comprehensive evaluation of tobacco control policies implemented over the last 10-15 years. The aim was to look at specific tobacco control measures, including the point of sale display ban, to establish whether they are having the desired effect on public health. The study uses a range of official smoking prevalence data and complex statistical methods and will form the most robust and important data source for the purpose of this review.

## ***Evaluation of recent English tobacco policy***

The National Institute for Health Research (NIHR) has conducted the study "*A comprehensive evaluation of the impact of recent English tobacco policy using secondary data*" for DHSC. The main aim of the study was to develop models to assess the impact of key measures aimed at reducing smoking prevalence in England, including the display ban for both large and small shops.

The research used a range of statistical methods, including interrupted time series analysis (ITSA), a powerful statistical method used to analyse time series data known to have been affected by a controlled intervention, in this instance, a change in tobacco legislation.

Using the ITSA method, analysis of the monthly and quarterly Smoking Toolkit Study (STS) and Health Survey for England (HSE) data indicates a fall in smoking prevalence following the introduction of the display ban in large shops. Furthermore, STS analysis of the display ban in small shops indicated a fall in smoking prevalence post-policy implementation (though no significant effect was observed for the HSE data). There were also deemed to be significant increases in quit attempts, though this did not translate into an increase in quit success.

Given the wide range of factors which could affect smoking prevalence such as: increasing e-cigarette use, prices, mass media and local government spending, it is difficult to attribute causality to the display ban legislation. As noted in the research, e-cigarette use gained in popularity around the time of implementation (though had largely plateaued by the time the display ban in small shops was introduced in 2015). The counter-factual trend in the modelling period was close to flat, therefore amplifying subsequent decreases in prevalence from 2012.

Overall, this research found consistent evidence that the point of sale display ban in both large and small shops has supported the decline in smoking prevalence amongst both adults and children. Further evidence to support these findings is considered in the peer reviewed studies below.

### ***The King's Fund***

The King's Fund conducted the study "*Understanding the impact of display ban regulations on small businesses: qualitative research*" for the DHSC. They carried out structured telephone interviews with owners, managers and those working at tobacco points of sale in small newsagents, convenience stores, independent petrol stations, and specialist tobacconists across England and Wales.

The interview questions covered areas including economic losses or gains to the business, demand for alternative products including e-cigarettes, competition between different types of tobacco retailers and perceived increases in availability of counterfeit/illicit cigarettes, as well as the perceived impacts on sales of tobacco to young people.

The interviews were structured to gain insight into particular areas and will be used throughout the evidence and evaluation sections in the form of verbatim quotes.

### **Findings of peer reviewed studies**

This section looks first at evidence specifically covering the point of sale ban on the display of tobacco in the UK and England, with supporting evidence from international studies that have taken place following the implementation of similar display regulations in those areas.

#### ***England and UK studies***

The most relevant study looked at the effect of the partial (large shops only) display ban in England<sup>1</sup> and sought to assess the impact on smoking prevalence. The study covered around 130,000 respondents in monthly cross-sectional surveys, with regression techniques used to explore changes in trends post-ban compared to pre-ban. The study found that display ban implementation was not immediately associated with a step change in smoking. However, there was a significantly greater decrease in current smoking post-ban compared to pre-ban after controlling for sociodemographic factors, e-cigarette use and seasonality, with a reduction over and above the secular trend of 0.46% per year. No significant change in cigarette consumption was observed. The effects observed in this study, though based on slightly different methods, are comparable to those in the commissioned study outlined above.

A UK<sup>2</sup> cross-sectional survey was also conducted across three periods (before, during and after display regulations were introduced), aiming to quantify the associations of noticing cigarettes displayed at point of sale and cigarette brand awareness, with smoking susceptibility on 11-16-year olds. The study concluded that both partial and full implementation of a display ban were followed by a reduction in smoking susceptibility among adolescents, which may be driven by

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<sup>1</sup> <https://tobaccocontrol.bmj.com/content/26/2/141>

<sup>2</sup> <https://tobaccocontrol.bmj.com/content/tobaccocontrol/early/2019/05/29/tobaccocontrol-2018-054831.full.pdf>

decreases in brand awareness. Smoking susceptibility decreased from 28% pre-ban to 23% mid-ban and 18% post-ban. In addition, in the post-ban period, 90% of those who had never smoked, supported the display ban and indicated it made cigarettes seem unappealing and smoking unacceptable.

A study was also conducted in England with the aim of assessing the impact of the display ban on child awareness of, and access to, cigarettes. This used data from the SDD survey (children aged 11-15) across 3 different periods (2010, 2014 and 2016). The survey found reduced exposure of children to cigarettes across large shops with the partial ban and smaller shops when the full ban was implemented. However, there was no change observed in the perceived difficulty of buying cigarettes amongst this age group.

### ***International and other evidence***

A large global study<sup>3</sup> was undertaken to assess the impact of point of sale tobacco bans, since 2001, when Iceland became the first country to implement one. The study considered data from 77 countries across the period from 2007 to 2014, with the level of exposure to tobacco at point of sale ranging from 0 to 1, where 1 was a full ban. Overall, the results showed that implementing a point of sale ban is likely to reduce smoking prevalence and lead to health benefits, with an estimated 7% decline in overall adult daily smoking.

Similar evidence<sup>4</sup> is also available in countries such as Australia and the United States<sup>5</sup>. In Australia, a cross-sectional survey of youths (12-24 years) found immediate impacts on youth exposure to tobacco displays and smoking related outcomes, concluding a positive contribution was made to the de-normalisation of smoking amongst young people. In the United States, an innovative 'Virtual Store' experiment to examine the impact of point of sale displays on youth outcomes concluded that enclosing cigarette products could deter attempted purchases. However, the study also acknowledged that some non-smokers may have perceived cigarettes as being more desirable when hidden from view and given the association with adult behaviours.

Another study from Australia<sup>6</sup> looked specifically at unplanned purchases. Interviews were conducted with customers who were seen purchasing cigarettes from retail outlets featuring point of sale displays. The results showed that unplanned purchases were made by 22% of participants, with point of sale displays influencing four times as many unplanned purchases as planned purchases. Additionally, four times as many smokers were supportive of a point of sale ban than unsupportive, and 28% agreed a ban would make it easier to quit.

A further behavioural study focused on the impact of the smoking display ban on adolescents across Europe<sup>7</sup>. This quasi-experimental study compared individuals in countries that did and did not implement a point of sale display ban, before and after implementation, looking at 15 and 16 year olds across 25 countries. The study concluded that the display ban was associated with a decrease in regular smoking among adolescents. The most likely explanation was the de-normalisation of tobacco due to the display bans rather than decreasing accessibility of tobacco.

A report produced by the Institute of Economic Affairs in July 2010<sup>8</sup> was critical of the display ban based on the implementation in Canada and other countries. The report concluded that tobacco display bans are "highly ineffective" in terms of reducing smoking prevalence and may

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<sup>3</sup> <https://tobaccocontrol.bmj.com/content/tobaccocontrol/27/e2/e98.full.pdf>

<sup>4</sup> <https://academic.oup.com/ntr/article/17/7/761/1025381>

<sup>5</sup> <https://pediatrics.aappublications.org/content/pediatrics/131/1/e88.full.pdf>

<sup>6</sup> <https://tobaccocontrol.bmj.com/content/18/3/218>

<sup>7</sup> <https://tobaccocontrol.bmj.com/content/28/4/401>

<sup>8</sup> Canada's ruinous tobacco display ban: economic and public health lessons, IEA discussion paper number 29



lead to economic damage due to shop closings. However, this paper was not peer reviewed and has been found to make a range of unevidenced assertions. The paper's author and the organisation also failed to declare long-standing funding links with the tobacco industry.<sup>9</sup>

Overall, the main body of academic research into the effect of point of sale tobacco bans suggests that, as well as reducing exposure to cigarettes and contributing to the de-normalisation of smoking, they support significant decreases in smoking prevalence. Therefore, according to the evidence the ban is an important factor in contributing to lower smoking prevalence in young people.

## **Key indicator data**

### ***Health indicators and impacts***

Another important element in assessing whether the objectives of the legislation have been met is tracking the key indicators the policy was expected to affect over the past 5 years. The extent to which these regulations are deemed successful is dependent on the extent to which they have influenced these indicators. This section takes findings from peer reviewed and commissioned studies and demonstrates the impact on various key indicators.

There are two main health benefits assessed for the display ban regulations:

- Young people who are deterred from smoking.
- Adults that the policy induces to quit smoking.

This section provides comparison of the original pre-implementation cost-benefit analysis with the estimated actual costs and benefits evidenced since the introduction of the display ban. The cost section addresses the question of whether there have been any unintended consequences and whether the objectives could be achieved in another way involving less onerous regulatory provision reducing the burden on business.

The following section presents a series of figures to illustrate the key indicators before and after the regulations came into force.

### ***Smoking Prevalence among Young People***

As previously mentioned, a key objective of the point of sale display ban is to deter young people from smoking. The Smoking, Drinking, and Drug<sup>10</sup> use among young people tracks smoking prevalence across the ages of 11 to 15 and the category of smoking frequency that young people report<sup>11</sup>.

For all young people aged 11 to 15 years old, 23% were ever smokers in 2012. By 2016, this had dropped to 19%, and further still to 16.2% in 2018. The proportion that were regular smokers also dropped. In 2012 this was 4% and dropped to 2.7% in 2016, and as of 2018 is 2.1%. The prevalence of occasional smokers (those who smoke less than one a week) has seen a minor decrease over the period. 4% of 11 to 15-year olds were occasional smokers in 2012, 3.6% in 2016, and as of 2018 was 2.9%.

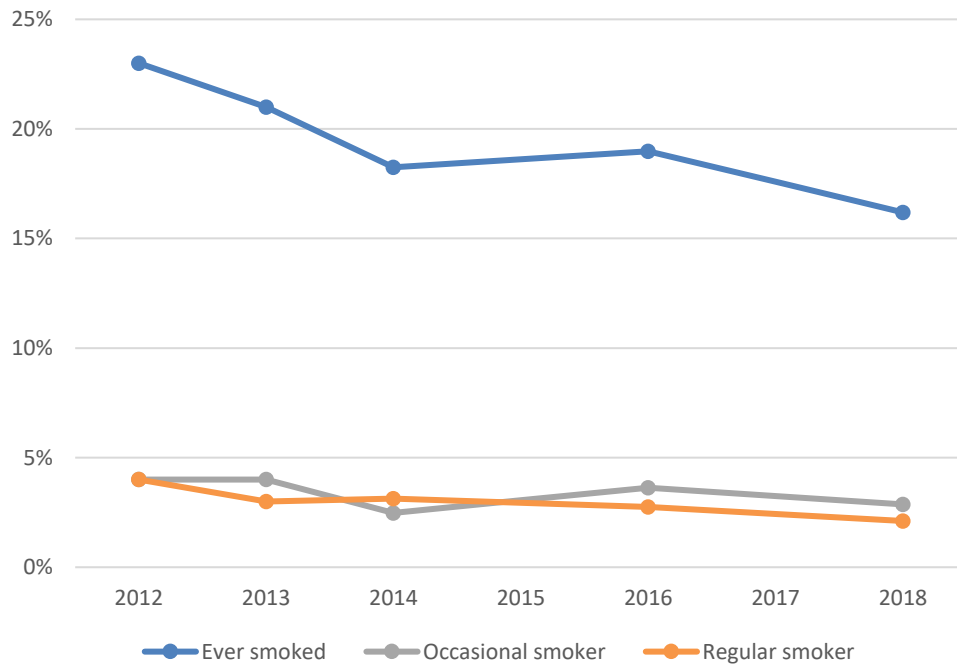
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<sup>9</sup> <https://scienceblog.cancerresearchuk.org/2010/09/13/patrick-basham%E2%80%99s-paper-on-tobacco-displays-doesn%E2%80%99t-add-up/>

<sup>10</sup> From 2012 data is only available every two years due to the Smoking, Drinking and Drug use among young people switching to a biennial publication.

<sup>11</sup> Regular smokers defined as usually smoking at least one cigarette per week, occasional smokers defined as usually smoking less than one cigarette per week, 'Ever smoked' includes 'current smokers' plus 'ex-smokers' and those who have 'tried smoking once'.

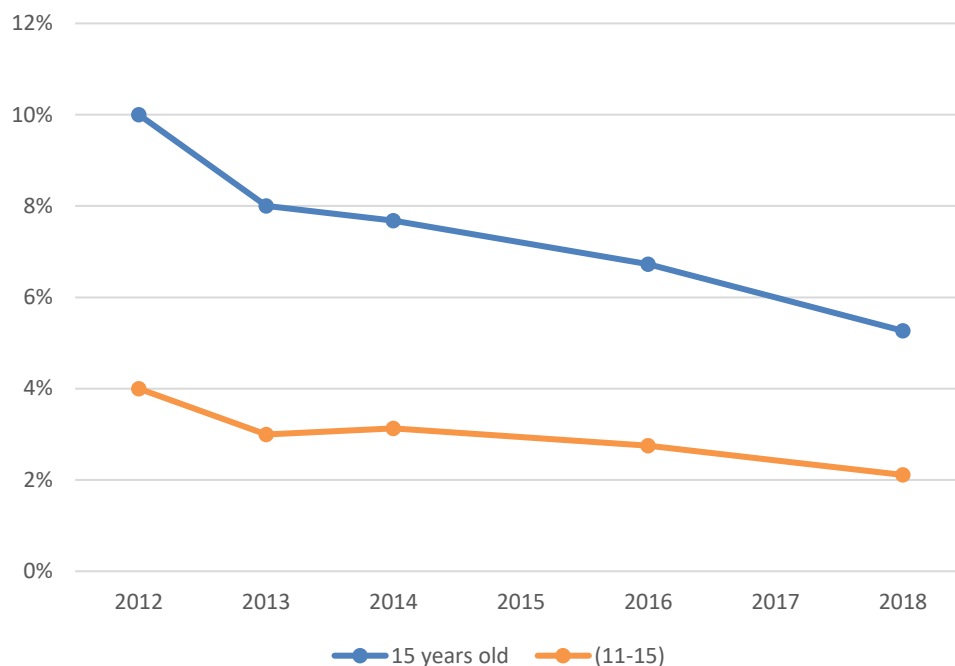
Figure 3: Young people’s smoking prevalence between 2012 and 2018 (Source: Smoking, Drinking and Drug use among Young People in England)



One of the aims of the Tobacco Control Plan is to reduce the prevalence of regular smoking amongst 15-year-olds to 3% or less by 2022. In 2012, the prevalence was 10%. By 2015 it had dropped more than a quarter to 7.2% and has continued to fall in the last 3 years and in 2018 was 5.3%.

The total regular smoking prevalence for all those aged 11 to 15 has also decreased. There are very few regular smokers aged 11 and 12, so the decline is mainly attributed to the reduction of regular smokers who are older. 13-year-olds regular smoking prevalence dropped from 2% in 2012 to 1.3% in 2015 and has remained roughly the same since. 14-year-olds regular smoking prevalence was 5% in 2012, 3.9% in 2015, dropping further to 2.6% in 2018.

Figure 4: Regular smoking prevalence among 15-year-olds and all those aged 11 to 15, between 2012 and 2018. (Source: Smoking, Drinking and Drug use among Young People in England)

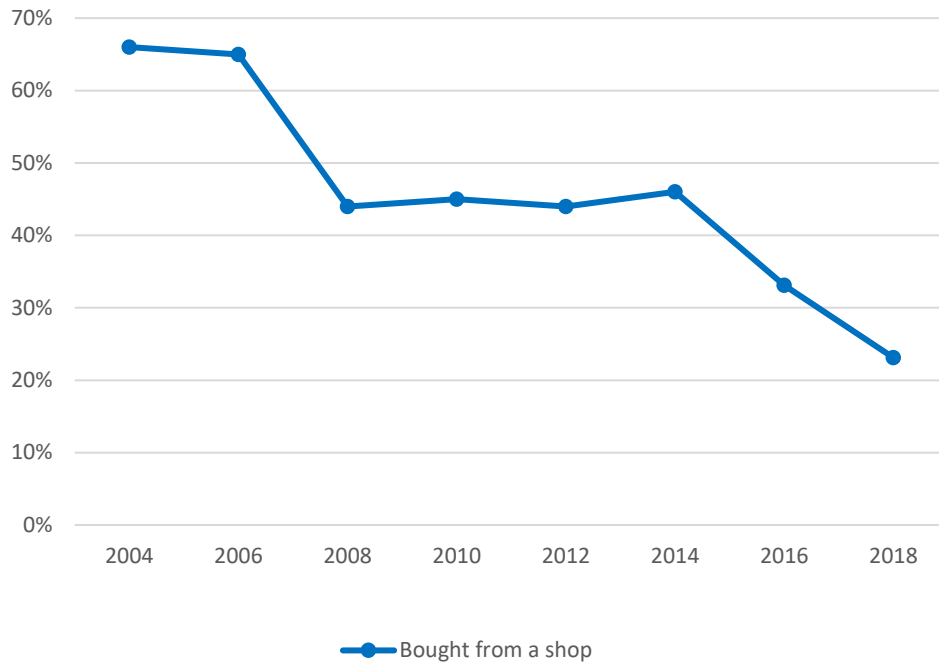


The SDD has been collecting data on where young people have seen cigarette packets on display since 2012. The proportion of young people that had not seen cigarette packets on display<sup>12</sup> increased from 5.0% in 2012 to 7.2% two years after the initial ban on large shops. Between 2014 and 2018, this increased to almost 17%, covering the period of the ban on tobacco display in small shops from 2015. However, the data still indicates that a large proportion remain aware of cigarette displays.

As well as fewer young people seeing cigarette packets on display, data suggests they are less likely to buy cigarettes from shops (Figure 9). The percentage of young people aged 11 to 15 who were current smokers, that had bought cigarettes in a shop, dropped from 46.0% to 33.1% one year after the display ban was enforced in small shops. This dropped further to 23.1% in 2018. For other methods of obtaining cigarettes the trends remained relatively stable.

<sup>12</sup> In a supermarket, newsagent, tobacconist, sweet shop, petrol station, garage shop, or another type of shop. From 'Smoking, Drinking, and Drug use Among young people 2018', Table 3.25 <https://digital.nhs.uk/data-and-information/publications/statistical/smoking-drinking-and-drug-use-among-young-people-in-england/2018>

Figure 5: Proportion of young people who bought cigarettes from a shop (Source: Smoking, Drinking and Drug use among Young People in England)



Since the display ban was implemented in 2012 for large shops and 2015 for small shops, the indicator data above shows that there have been marked decreases in smoking prevalence in young people aged 11 to 15 and for those aged 15 years (i.e. older children who are more likely to smoke). In 2018 only 1 in 6 young people had ever tried smoking, compared to almost 1 in 4 when the display ban was introduced. As of 2018, smoking prevalence for young people has fallen to its lowest ever levels for both regular and ever smokers.

In addition, supporting indicators such as awareness of cigarette packets and the proportion of young people purchasing cigarettes from shops provide a further indication that the display ban has contributed to reduced smoking prevalence amongst young people.

The trends in key indicators reinforce the evidence presented in the peer reviewed papers, which show a reduction in brand awareness and therefore smoking susceptibility, both important factors in reducing uptake of smoking amongst young people. In short, the decreases in smoking prevalence are what we would expect to see.

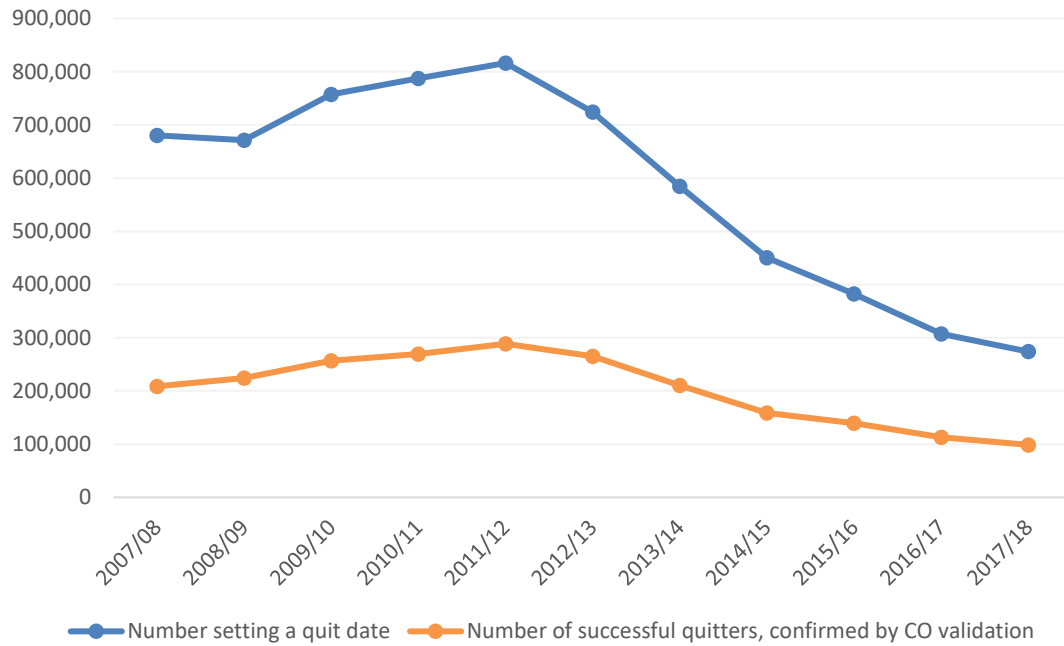
### **Smoking Prevalence and Cessation among Adults**

As shown in Figure 1 above, adult smoking prevalence has decreased over the period of the display ban, from 19.3% to 14.4% in England. There will be a range of factors behind this trend, but as outlined by the commissioned and peer reviewed evidence, the display ban legislation has been an important factor in reducing prevalence.

The picture is less clear when looking at quit attempts. The NHS Statistics on Stop Smoking Services (SSS) tracks those individuals that engaged with the NHS to help them quit smoking. It includes those under the age of 18, however most of those engaging were adults.

Since the display ban was introduced, the number of people using an NHS SSS has been declining. In 2012/13 when the display ban came into force in large shops, the number of people setting a quit date and the number of carbon monoxide (CO) validated quitters was around 725,000 and 265,000 respectively. In 2017/18 the number of quit dates set through NHS SSS was just under 275,000 with the number of successful attempts just under 100,000.

Figure 6: The number of people engaging with NHS SSS to set a quit date, and the number of successful quitters confirmed by CO validation, between 2007/08 and 2017/18 (Source: NHS Statistics on Stop Smoking Services)



There may be a variety of reasons for the fewer number of quit attempts including an overall reduction in the number of people smoking. However, despite this decline, the proportion of successful quitters, both self-reported and CO validated, remained stable at over a half and over a third respectively of those setting a quit date.

Despite the decline in quit attempts, the ONS Adult Smoking Habits survey<sup>13</sup> reports that the proportion of adult (aged 16+) smokers who have quit (ex-smokers) has increased from 50% in 2012 to 62% in 2018. This indicates that the implemented regulations, including the display ban, have provided a more supportive environment for adults wishing to quit.

The HSE published figures on smokers’ intention to quit in both 2015 and in 2017. There were several answers available to respondents. In 2015, 60% of expressed an interest to quit<sup>14</sup>, a further 19% thought they should quit, and 23% did not want to quit. By 2017, the percentage of smokers expressing an interest in quitting had risen to 65%, 17% thought they should quit, and only 16% did not want to quit. The ONS Adult Smoking Habits provided similar figures, but their 2018 data differs from other years and is not comparable. The 2018 figures suggested that 59% of smokers wanted to quit, a further 20% did not know either way, and 22% did not want to quit<sup>15</sup>.

In conclusion, prevalence itself has reduced by 5 percentage points, and the number of smokers attempting to quit is declining, but as prevalence is continuing to decline this might be expected.

The key indicator data shown in this section supports the findings of the commissioned study and other peer reviewed research by showing a decrease in levels of youth and adult smoking

<sup>13</sup> ONS Adult Smoking Habits in the UK 2018, Table 3

<sup>14</sup> The categories: **Expressed interest to quit:** ‘I really want to stop smoking and intend to in the next month’, ‘I really want to stop smoking and intend to in the next three months’, ‘I want to stop smoking and hope to soon, I really want to stop smoking but I don’t know when I will’, ‘I want to stop smoking but haven’t thought about when’, **Thought they should quit:** ‘I think I should stop smoking but don’t really want to’, **Did not want to quit:** ‘I don’t want to stop smoking’

<sup>15</sup> Figures do not sum correctly due to rounding.

prevalence since the point of sale display ban was introduced. As has already been noted, there are a range of factors that could influence levels of smoking prevalence. As well as the display ban, there have been a range of other legislative measures introduced over the last 10 years. It is also important to consider these alongside the possible impact of price changes and increases in popularity of alternative smoking products such as e-cigarettes.

Overall, the sources presented here provide a consistent body of evidence to show that the point of sale display ban, associated legislation for specialist tobacconists, and restrictions on display of prices, have resulted in important reductions in smoking prevalence amongst both youths and adults. Such reductions in smoking prevalence are what we would expect to see based on the evidence of the commissioned studies and peer reviewed research.

The section below attempts to quantify the effect of the display ban in the context of the cost and benefit analysis included in the original impact assessment. Several scenarios aim to illustrate the effects, based on the evidence available.

## **Economic impacts**

### ***Evaluation of costs***

The net cost to businesses of the point of sale display ban legislation was estimated in the original impact assessment to be £42m per annum and includes an estimated increase in service and restocking time, plus the cost of price list maintenance. There was an additional estimated cost of £5m per annum for customers, plus a further one-off implementation cost to small and large business estimated at £28m.

An update of these estimates is provided below using the same method as in the Impact Assessment but using actual data reported over the period of 2015 to 2018. Qualitative evidence from the King's Fund research and the public consultation provides supporting information alongside this.

### ***One-off Costs***

The one-off costs for implementation were based on the number of shops expected to have to install and modify existing tobacco displays to be compliant with the regulations. The impact assessment estimated costs of £450 for small shops, and £850 for large shops. There has been no new evidence to suggest these figures were inaccurate, so these figures remain the same in the updated estimates.

At the time of the Impact Assessment, the number of shops was estimated to be roughly 56,000 in total (49,099 small shops). In 2015 when the regulations were implemented, there were slightly more small shops according to the Association of Convenience Stores (ACS) Local Shop Report<sup>16</sup> at 51,524. The number of large shops has been assumed to stay the same. Considering this increase, the one-off installation costs may have been slightly higher at £29m compared to the IA estimate of £28m.

However, a trade body responding on behalf of convenience stores and a public health charity reported that where tobacco manufacturers had a specific relationship with retailers, they had paid for the installation of a gantry. The King's Fund research supports this assumption, with the majority of interviewees having reported no one-off costs as display cabinets and shutters were provided by the tobacco companies. Independent research<sup>17</sup> and reports from trade bodies<sup>18</sup> also substantiate the claim that thousands of retailers were offered and benefited from financial incentives.

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<sup>16</sup> ACS Local shop report 2015

<sup>17</sup> [Tobacco companies' use of retailer incentives after a ban on point-of-sale tobacco displays in Scotland](#)

<sup>18</sup> <https://www.betterretailing.com/products/tobacco/imperial-tobacco-pushes-free-gantry-conversion/>

This does indicate widespread support of retailers by tobacco companies. In contrast a different trade body provided an average cost of installation for independent retailers of almost £5,000. However, no further details were provided, and DHSC was unable to verify this figure.

The DHSC made attempts to source quantitative figures to support the statements above that indicate (possibly widespread) subsidising of tobacco display gantries from the industry. A comprehensive search for qualitative data was conducted. Although firm data was not available, the results included in this report provide further indications of the size of this effect and support the findings of the independent research. It should be noted that tobacco companies were not contacted directly to provide details, due to the unfeasibility of conducting a viable cross-sector survey and concerns over the validity of responses that may contradict DHSC's World Health Organisation Framework Convention on Tobacco Control (WHO FCTC) obligations.

So even though DHSC estimates that the costs of installation will remain as indicated in the original impact assessment, it is likely that a larger portion of these costs were borne by tobacco companies, therefore lowering some of the burden on small businesses and retailers. However, we are unable to estimate the extent to which this was the case.

Overall, there is no further indication that the costs of the gantry installation were any higher than indicated in the impact assessment. This conclusion is supported by high rates of uptake (see below), indicating that costs of installation were not an issue for retailers.

### ***Recurring Costs***

The recurring costs associated with the display ban were for increases in service, stocking, and maintenance time. The impact assessment calculations were based on an increase in serving time of 2 seconds. This assumption was then applied to the number of cigarette packs sold per year and an hourly wage (the average for sales assistants and cashiers) plus 30% overhead.

As there is no further evidence available on the increase in service time, when reviewing the IA calculations, DHSC has assumed this remains at 2 seconds. In the original IA this was expected to apply to roughly 1.9 billion packs of cigarettes per year<sup>19</sup>, resulting in a cost to businesses of £10.4m per year (2010 prices). The number of cigarette packs sold per year decreased from roughly 1.9 billion in 2015 to approximately 1.2 billion in 2018<sup>20</sup>. The higher average wage in 2015 (£10.63) meant costs could have been slightly higher at £10m for that year, however the large decline in the number of packs sold in following years means the cost to business could have fallen to £7m by 2018.

The increase in restocking time of an hour a week was estimated to bear a cost of £28.1m per year (2010 prices). This is based on the number of shops each year as reported by the ACS in the Local Shop reports. For small shops, this number fell from 51,524 to 46,262 (the majority of that decrease between 2017 and 2018). While this would result in a lower than expected cost to business overall, this was offset by the increase in average wage. The yearly cost could have been up to £28m in 2017.

The increase in costs due to extra price list maintenance was estimated to be £3.2m per year (2010 prices) in the Impact Assessment. Again, this is based on the number of shops each year, and the extra half an hour each week required to maintain the pricelist. The increase in average wage outweighs the decrease in the number of shops, with estimates slightly higher in each year from 2015 to 2018 compared to the Impact Assessment.

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<sup>19</sup> Hand-rolling tobacco was not included in these estimates, and has not been done so in the updated calculations either.

<sup>20</sup> According to Nielsen Data

The following is the estimated cost to business each year due to the display regulations compared to the original estimates of the Impact Assessment:

*Table A: Estimated recurring costs to business (real terms), compared to the Impact Assessment estimates*

RECURRING COST TO BUSINESS <sup>21</sup>	£m			
Year	2015	2016	2017	2018
Increase in service time	9.8	10.0	8.0	6.9
<i>Impact Assessment Estimate</i>	9.4	9.1	8.8	8.5
Increase in stocking time	26.6	27.4	27.7	26.3
<i>Impact Assessment Estimate</i>	25.3	24.5	23.7	22.9
Increase in price list maintenance	3.3	3.4	3.5	3.3
<i>Impact Assessment Estimate</i>	2.9	2.8	2.7	2.6
Total	39.8	40.8	39.2	36.6
<i>Impact Assessment Estimate</i>	37.6	36.3	35.1	33.9

Based on the table above, the actual costs estimated are slightly higher than the original estimate of costs made in the IA, however the estimates remain within £5m from 2015 to 2018. This was mainly driven by the increase in stocking time and price list maintenance, with costs associated with an increase in serving time estimated to be lower than estimated by 2018.

### **Qualitative Evidence**

From the consultation responses (see below) some respondents mentioned the topics of serving times, restocking, and installation. These themes were also asked about in the King's Fund research.

When asked about the impact the regulations would have on retailers, 27 of the 468 responses directly mentioned an increase in serving time or longer queues. Another 61 mentioned an inconvenience to staff or the retailers. However, when asked about the impact on the general population, there were fewer mentions of increased serving times or longer queues (13 responses) and inconvenience to customers and staff (19 responses).

Interviews conducted by The King's Fund found that there had been minimal impact on serving time, with one exception being an independent petrol station:

*"It takes a little bit longer time to serve the customer because all cigarette packet looks similar, so you have to read the name."*

*"I think it was quite difficult to begin with, but we have got used to it as time's gone on."*

*"the doors have maybe an effect on the time it takes to serve the customers [...] we do get queues constantly. So it does make a difference with the doors when they're asking us for a specialist brand"*

<sup>21</sup> We have calculated estimates of recurring costs based 2010 prices (the price year used in the original IA) to allow costs to be compared with original IA estimates in later years. Discounted rates have been applied to the original IA estimates, based on the Green Book rate of 3.5%.



A trade body who responded on behalf of convenience stores did not specifically mention any issues with serving time. However, they did raise the issue of the requirement to keep tobacco products hidden whilst being moved around the shops and queried the need for this approach since the implementation of plain packaging.

Some comments also suggested that the exemptions provided by the regulations could be further limited to make the ban on display stronger by having tobacco displays completely out of sight, citing that point of sale gantries retain value as a promotional tool for tobacco companies. Without a full assessment of this proposal it is difficult to assess the costs and benefits of strengthening the regulations, but DHSC considers that there would be further costs to business associated with this, while the additional health benefits are unclear.

The relatively low number of consultation respondents mentioning disruption to retailers indicates that the overall effect of these regulations has been for the majority, minimal.

### **Impact on tobacco supply chain**

The DHSC could not source any quantitative data or evidence on the impact of the distribution of tobacco across the supply chain when complying with the display exemption regulations, therefore it was not possible to make an estimate of the costs.

In the consultation, there were also very few mentions of logistical impacts due to the display regulations, and no detailed evidence was provided. Only four out of 468 responses mentioned logistical problems, and only one of these was on behalf of businesses:

*“Made stock control more difficult, lengthened serving times, made it more likely that the wrong product will be sold.”*

Small businesses interviewed by The King’s Fund did report some impact on the way they managed, audited and replaced stock, though substantive comments referred to an increase in serving time, rather than disruption to the supply chain:

*“It takes longer now because obviously before they were open and now you’ve got to...even in the drawers you’ve got to pull out each one and check what you’ve got and, yeah, it’s a bit more time consuming actually.”*

Evidence was even more limited further up the supply chain, with no mention of logistical issues from wholesalers or tobacco companies. This provides some indication that the distribution of tobacco across the supply chain was not unduly affected by the changes to regulations and furthermore, no unintended consequences were highlighted.

## **Compliance rates**

In England, since the display ban was introduced, a report by The Chartered Trading Standards Institute (CTSI)<sup>22</sup> showed that by the end of 2015 almost 9 in 10 small retailers were compliant with the legislation. This report contradicts the evidence in the display ban IA which estimated that less than half of business would be compliant by the end of the first year of the ban for small retailers, with 70% predicted compliance by the end of the second year. Therefore, it is likely that the health benefits estimated in the IA (see below) will be realised earlier.

Furthermore, the most recent CTSI report<sup>23</sup> reported that of the 69% of councils who conducted tobacco control activities in relation to display and pricing, 95% of visits found retailers were compliant with display requirements and 99% compliant with pricing requirements. In terms of actions taken on non-compliance, 30% of councils took some action, most commonly verbal or written warnings (93%), with one business prosecution and two individual prosecutions. This latest report shows that once established, compliance remained high, with few infringements.

Despite some reports from tobacco companies and the retail sector of the cost burden for small businesses of installing tobacco gantries, the compliance data indicates that almost all shops were willing and able to comply with the regulations. The high compliance rate and absence of unintended consequences shows broad acceptance of the regulations from retailers.

## **International and further evidence**

Evidence on the costs of display regulations is also available from a report commissioned by Cancer Research UK<sup>24</sup> that quoted studies from a range of countries indicating display ban compliance is high amongst small retailers. There is also very little evidence that compliance had been a costly exercise and studies in Australia and the Republic of Ireland reported very few store closures.

Additionally, according to Association of Convenience Stores (ACS) Local Shop reports<sup>25</sup>, there were 49,840 convenience shops throughout mainland Britain in 2012, 77% of which were independent retailers. As mentioned above, the number of shops peaked in 2015 with 51,524, and as of 2019 has dropped to 46,388, of which 71% were independent retailers. Despite the decrease in the numbers of shops, sales volumes increased over this period. The portion of sales that were tobacco related declined from 19.9% in 2012 to 18.8% in 2015. From 2016, figures included e-cigarettes with the proportion increasing from 15.4% in 2016 to 20.9% in 2019. Therefore, the sales data indicates that lost sales of tobacco will have been replaced by sales of other products.

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<sup>22</sup> <https://www.talkingretail.com/news/industry-news/9-10-retailers-compliant-tobacco-display-ban-report-shows-29-10-2015/>

<sup>23</sup> <https://www.tradingstandards.uk/media/documents/news--policy/tobacco-control/tobacco-report-2017-18-final-version.pdf>

<sup>24</sup> [https://www.cancerresearchuk.org/sites/default/files/feb2014\\_pointofsale\\_briefing\\_final.pdf](https://www.cancerresearchuk.org/sites/default/files/feb2014_pointofsale_briefing_final.pdf)

<sup>25</sup> ACS *Local Shop Reports* <https://www.acs.org.uk/research/local-shop-report>, Previous editions: <https://www.acs.org.uk/research/local-shop-report/previous-editions>

## **Specialist tobacconists and display of prices regulations**

To a large extent the evidence presented above is relevant to specialist tobacconist and display of prices regulations. Evidence specific to these regulations is generally very limited, however, there are some specific insights from the King's Fund report.

For **specialist tobacconists**, the overall feeling was that the regulations had limited impact due to regular clientele who were unlikely to change their habits. It was also reported that a generally shrinking customer base had already resulted in a more limited range of available products.

In terms of **display of prices**, the King's Fund research suggested an increase in customers asking about price. However, this was attributed to the increase in cigarette prices generally rather than the requirement to display of prices. For example, it was mentioned that as price is communicated verbally more often, some customers are shocked when prices are increased.

### ***Cost to the exchequer***

Tax revenue is a transfer of benefits from tobacco consumers to the community, via the Exchequer. A decline in smoking prevalence and consumption will result in a reduction of this transfer. However, it should be noted that this reduction will be partly offset by money spent on other taxable goods.

Overall tax receipts on tobacco products have fallen by £725m in total, from £9.55bn in 2011/12 at the start of the display ban period, to £8.83bn in 2017/18. The largest annual decrease in tax receipts was from 2015/16 to 2016/17 where tax receipts fell by £576m<sup>26</sup>.

The original display ban Impact Assessment estimated the effects on the exchequer of reduced tax revenue at £64m per annum from young people not starting to smoke and £53m per annum from adult quitters. The extent to which lost duty revenue has been incurred depends on the reduction in prevalence and consumption in the cigarette market caused by these and other regulations. An assessment is made of the impact on smoking prevalence in the 'Evaluation of benefits' section.

### ***Costs to the tobacco industry***

In the original IA the impact of the legislation on demand for cigarettes was considered a secondary or indirect effect and therefore out of scope. However, to illustrate the potential effects on the tobacco industry, it is worth considering the following scenarios:

- The reduction in tobacco prevalence resulting from the display ban legislation will have caused a fall in company sales, reducing profits for UK-based shareholders. However, these losses will likely have been completely offset by increased profits on goods and services purchased instead of tobacco, resulting in a net cost to the economy of zero.
- The other probable effect is that the introduction of this legislation and subsequent fall in sales and profits to UK-based shareholders is only a short-term impact. Any impact on profitability for manufacturers will over time be eroded as people and institutions move their investment between different opportunities, for example exploring less-regulated markets to promote cigarettes, or shifting focus to other modes, such as e-cigarettes.

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<sup>26</sup> HM Revenue & Customs, Tobacco Bulletin – October 2018

### **Estimated Lost Profits**

Tobacco profit margins for small retailers are reported to be very low, with 89% of retailers reporting a profit margin of less than 6% on tobacco products<sup>27</sup>. A central estimate of 5% profits is used for the estimation of lost profits below.

The value of sales of cigarettes<sup>28</sup> declined from roughly £12.5bn in 2015 to £11.1bn in 2018. This represents potential profits of £625m in 2015, declining to £580m in 2018.

The decrease in profit over the 3 years is estimated to be up to £45m by 2018. Due to the number of regulations and tax increases that happened over the duration, it's difficult to estimate exactly what proportion of these lost profits are due solely to the display regulations. To estimate this we assume that:

- The drop in prevalence is what causes a drop in value sales and the loss of profits.
- Regulation and tax increases are solely responsible for the total drop in prevalence.

To give an example of the effect on profits we have looked at a scenario where 10% of the loss of profits since 2014/15 would be due to the display ban. As noted, there will be many reasons for the decline in profit seen since 2014/15 and the 10% is likely to be on the high side. However, as mentioned throughout this review, it is difficult to fully assess the effect of one regulation, so this example provides a realistic indication of the profit loss.

Applying this proportion to the drop in profits over the three years, we estimate that the display ban contributed to a loss in profit of up to £7m by 2018.

When dividing estimates of lost profits across retailers, and against the fall in profits due to other factors (e.g. standardised packaging, introduced in 2017 will have had a large effect), we estimate that the effect due to the display ban will have been negligible.

*Table B: The central estimates for the loss in profit caused by the display regulations. Values may not appear correct due to rounding. See <sup>29</sup> for explanation*

ESTIMATED PROFIT LOSS FOR RETAILERS	£m			
	2014/15	2015/16	2016/17	2017/18
Total Value Sales (All Shops)	£ 12,500	£12,300	£12,200	£11,600
Profits Central Estimate, 5%	£ 625	£ 616	£ 608	£ 580
Profit Loss (compared to 2014/15)		£ 8	£ 17	£ 45
Display Regulation assumption (10% cumulative effect)		£ 1	£ 2	£ 7

<sup>27</sup> <https://pubmed.ncbi.nlm.nih.gov/29546150/>

<sup>28</sup> Hand rolling tobacco is not included in these estimates

<sup>29</sup> Table B: **Row 1** is data from the Nielsen Scantrack reports. **Row 2** is obtained by multiplying Row 1 by 0.05 (5% profit margin). **Row 3** is obtained by subtracting the yearly figures in Row 2 from the baseline in 2014/15. **Row 4** is obtained by multiplying Row 3 by 0.1 (10% attributable to the display regulations).

### **Summary of cost evidence**

The evidence suggests that one-off costs of the display ban have been in line with those estimated in the original IA, with some indication that costs may have been lower. Ongoing costs are estimated to have been slightly higher than expected, but within acceptable limits. The evidence from CTSI and the calculations above also indicate that small retailers will only have experienced a negligible loss of profit as a result of fewer sales.

Evidence was limited in terms of the distributional impacts across the supply chain, with only minor comments from retailers concerning restocking. There were no consultation responses directly from wholesalers indicating that this group was largely unaffected.

The high compliance rate also strongly indicates that the regulations were accepted quickly by retailers, with few implementation issues reported.

If the display ban legislation was replaced, it should be noted that any cost incurred from the installation of tobacco gantries would be lost. Therefore, the only cost savings would be associated with savings in serving, restocking and price list maintenance time (estimated as £37m in 2018). However, the evidence indicates that retailers are used to the display regulations and therefore actual savings are likely to be lower than initial estimates.

Therefore, given there is little evidence of any major disruption across the supply chain to retailers and wholesalers, the DHSC concludes that from a cost saving point of view, there would be no benefit to relaxing the legislation, given the likely effect that mixed messages would lead to a negation and reversal of the health benefits estimated in the section below. Despite some unpopularity amongst the general public related to the general erosion of rights for smokers, the overall impression, particularly where evidence was provided in the consultation, is that retailers have accepted the display ban. This is also supported by the high levels of compliance.

Further consideration to the PIR options of whether to retain, amend, remove or replace the regulations has been considered below.

### **Evaluation of benefits**

Due to the addictive nature of cigarette smoking, the main policy focus for young people is on prevention, so reducing the uptake of young people smoking produces large and long-term benefits. The original Impact Assessment for the display ban regulations made estimates of the health benefits of both fewer young people taking up smoking and adults quitting smoking.

The central estimate was of 6,000 fewer young people taking up smoking, a reduction of 0.9 percentage points in the number of regular smokers and a monetised value of £562 million per annum (£3.1 billion over a 10 year period, phased in over three years). For adults quitting smoking (and avoiding relapsing) the IA estimated 14,350 more people would be helped to quit per year, with an average annual reduction in smoking prevalence of 0.04 percentage points over 10 years. This equates to a total annual health benefit of £1.1 billion (£8.9 billion discounted over a 10 year period).

Both the central estimates for young people and adults from the IA are within the boundary of the fall in prevalence in smoking actually observed since the implementation of the display ban regulations. The following sections will explore the extent to which this fall in prevalence has been driven by the display ban regulation.

### **Applying peer reviewed evidence to health benefits**

The DHSC has reviewed a range of commissioned and peer reviewed evidence for this review. As mentioned above, a number of these studies included quantitative estimates on the impact of the point of sale display ban. A cross-sectional study for England<sup>30</sup> described above, estimated the effect of the 2012 partial ban and concluded that “the ban was followed by a decline in the trend of smoking prevalence that could not be accounted for by seasonal factors, e-cigarette use or price changes”. The impact of this was a “reduction over and above the secular trend of 0.46% per year”.

Based on adult smokers, applying this effect to the overall smoking population annually from 2012 would imply a reduction in the number of smokers of over 37,000. Using the monetised value of gain per quitter of 1.24 discounted life years, valued at £74,400 each, this **equates to a health benefit of around £2.8bn**. This estimate is over and above the annual benefits predicted by the original Impact Assessment and only covers the impact on adult smokers. However, based on the results of this study, the point of sale display ban will have had substantial health benefits over and above the costs of implementation.

### **A “break-even” scenario**

A further scenario would be to assess the ‘break-even’ point for benefits to exceed the costs of the point of sale tobacco display ban. Whilst there are other factors to consider when introducing a policy other than a simple cost benefit calculation, this provides an indication of the level of health benefits required. From the section above, the overall costs of implementation of the point of sale display ban legislation per annum (including the one-off costs) are £191.7m.

Based on the methodology used in the IA, to meet these break-even costs there would have to be an annual reduction in young people taking up smoking of 2,050 per year. In terms of smoking prevalence (for 11-15-year olds), this would require a reduction of 0.3 percentage points<sup>31</sup>. Over the period of assessment for this regulation, smoking prevalence in this group has decreased by 2 percentage points (from 4% in 2012 to 2% in 2018). Therefore, the break-even point implies that **the display ban would need to account for just under one-sixth of this total decrease in prevalence to cover the costs of the scheme with health benefits**. Given the evidence presented above, it seems reasonable to assume that the display ban has achieved this and contributed by at least that amount to the reduction in prevalence.

Using a similar method, we can calculate that the number of adult quitters per year required to break-even with the costs would be 2,580. This represents a decrease in prevalence of 0.03 percentage points per year.

From 2012 to 2015 smoking prevalence fell by 2.5%, with a further decline of 2.4% from 2015 to 2018. The decline in prevalence is evenly balanced across the two periods relevant to the display ban regulations. However, it should be noted that the largest annual fall in prevalence was 1.4% from 2015 to 2016 after the prohibition on display of tobacco products in small shops was introduced. Therefore, any display ban effect will have had more impact in specific years. However, as an illustration, given that the average drop in prevalence since 2012 has been 0.82 percentage points, the display ban would have only had to contribute to 4% of the overall drop in adult smoking prevalence to have covered the scheme costs. Again, given the evidence stated above it seems safe to assume that the display ban will have had at least this effect on adult quitters, with the effect in certain years likely to be much larger.

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<sup>30</sup> Kuipers research: <https://tobaccocontrol.bmj.com/content/26/2/141>

<sup>31</sup> This assumes that an extra 2,048 young people will not take up smoking in each annual cohort. This extra reduction would need to be seen in each year of the period in order for the drop in prevalence to be 0.3%

Overall, we would need either 2,050 young people not taking up smoking or 2,580 adults quitting or some combination of the above for the ban on display of tobacco legislation to break even.

Based on the evidence of the effect of the display ban presented from a range of sources, we are confident that the health benefits of the ban are substantial and comfortably outweigh the costs. Furthermore, these estimates of health benefits are likely to be conservative as they only consider health value, and not any indirect benefits to healthcare costs, social care or the economy.

### ***Impact of tax increase on smoking prevalence***

Within this section we have assessed the expected impact of the introduction of the tobacco display ban on smoking prevalence based on break-even scenarios and a measure from the peer reviewed study discussed above. However, tax increases on tobacco also have a significant effect on smoking rates, with higher retail prices one of the most effective ways of reducing tobacco use. From 2012 to 2018 there were significant tax increases, with prices increasing 2% above inflation in most years, with a rise of 5% above inflation in 2012. The overall increase in average price from 2012 to 2018 was over 30% (from £7.10 to £10.23) for 20 king size filter cigarettes<sup>32</sup>.

There have been studies into the effect of price increases on consumption of cigarettes and smoking prevalence, though as with regulatory measures, this is difficult to isolate. However, based on a detailed econometric analysis from 2010<sup>33</sup> suggested that elasticity estimates for cigarettes were between -1.17 and -0.92. As a simplification, if price elasticity was -1.2 then a 30% price increase implies a decrease in consumption of 36%. However, it should be noted that this calculation is based on duty paid cigarette consumption, which may not reflect overall tobacco consumption.

From the implementation of the display ban legislation in large shops in 2012, to implementation in small shops in 2015, there was a 20% increase in the average cost of cigarettes (20 king size). From 2015 to 2018, there was a further increase in the average cost of around 13%. Therefore, bearing in mind the caveats above and the uncertainties around elasticity calculations, it is possible that price increases over the same period may have accounted for a decline in prevalence of up to a third of the total decline of five percentage points. However, this still leaves two-thirds of the effect which could be explained by other factors, including the various regulatory measures and increases in e-cigarette use.

## **Social & Public impacts**

### ***Attitudes to smoking***

Survey data shows that young peoples' attitudes to smoking have been changing over the last 5-10 years. When the display was introduced in large shops in 2012, over 30% of those aged 11-15 thought it was "okay to try smoking to see what it is like". In 2018 this figure had declined to 24%. Furthermore, in 2018, 9% of children thought it was "okay to smoke once a week" and 75% reported that their family do or would try to stop them smoking.

The research papers discussed above also show evidence that the smoking ban has helped to de-normalise cigarettes, with an increasing proportion of those surveyed (pre, during and post

<sup>32</sup> <https://www.ons.gov.uk/economy/inflationandpriceindices/timeseries/czmp/mm23>

<sup>33</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/331580/cig-consumption-uk.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/331580/cig-consumption-uk.pdf)

display ban) reporting that the ban made cigarettes seem unappealing and smoking unacceptable.

### ***Impacts on labour market of reduced smoking prevalence***

Reduced smoking prevalence amongst young people and adults also impacts the labour market. A recent OECD paper<sup>34</sup> assessed the labour market impacts of various risk factors including smoking. The report showed that smoking impairs employment prospects, wages and productivity. Reductions in prevalence such as those demonstrated in this report are likely to lead to increases in economic production due to a healthier workforce. There may also be other economic benefits, such as a reduction in smoking breaks.

This report includes evidence that display bans have had a significant effect in reducing smoking prevalence. However, given the difficulties in applying this to future gains in health outcomes, no attempt has been made to quantify the benefits on the labour market in this report.

### **Summary of considerations on whether to retain, amend, remove or replace regulations**

This report sets out a wide range of evidence on whether the objectives of the display ban have been met, whilst also considering whether the costs to businesses are appropriate, or whether the objectives could be better achieved with further legislation, or in a less burdensome way. This section therefore sets out the reasoning on whether to replace, amend, remove or retain the regulations.

#### ***Replacing or removing the regulations***

There were no consultation responses received that provided a viable alternative to the display regulations in their current form (i.e. to replace them). To remove the regulations would result in a reversal of the health benefits stated above, whilst providing only minimal cost savings for businesses (in terms of serving and restocking time). The costs of installing gantries are “sunk costs” and could not be refunded, and in the case that regulations were replaced, removing tobacco gantries would impose a further cost to small businesses (or the company responsible for installation).

A complete removal of the display regulations would also be a return to the pre-legislation world covered in the original IA (which as we have assessed, made a reasonable estimate of costs). This option was fully assessed as an inferior option.

#### ***Amending the regulations (relaxing or strengthening)***

This section considers options for relaxing or strengthening the regulations following responses to the consultation.

Suggestions to relax the regulations with the aim of removing some unnecessary burdens, particularly on business were limited. As mentioned above, the issue of the requirement to keep tobacco products hidden while being moved around the shops was raised since the implementation of plain packaging. DHSC considered that to relax the regulation in this specific

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<sup>34</sup> Devaux, M. and F. Sassi (2015), “The Labour Market Impacts of Obesity, Smoking, Alcohol Use and Related Chronic Diseases”, OECD Health Working Papers, No. 86, OECD Publishing, Paris.  
<http://dx.doi.org/10.1787/5jrqn5fpv0v-en>



way would undermine the overall display ban legislation, while providing only a very minor reduction in the burden to businesses.

There were further suggestions from various stakeholders to strengthen the regulations. As mentioned above, there was a proposal to keep tobacco products entirely out of sight (“below the counter”), the argument being that this further reduces awareness by having no sight of tobacco (particularly for children) when restocking or purchasing. Other comments covered the potential for tightening restrictions around the display of prices (e.g. one price list per shop) and further restrictions to bulk tobacconists such as duty-free areas in airports.

DHSC considers the relatively minor amendments suggested around display of prices and bulk tobacconists would add to the administrative and legislative burden with additional costs to businesses, whilst not certain to provide extra health benefits over and above those seen and quantified in this PIR, due to the current display ban.

These minor amendments to existing regulations should be distinguished from more significant new policy proposals, for example the above-mentioned consultation suggestion that tobacco products be kept “below the counter”. In this case, a full review and Impact Assessment would be required. Therefore, we consider further discussion of these options to be outside the scope of this PIR.

### ***Retaining the regulations***

The key indicator data and peer reviewed research evidence provides a strong argument that the stated health benefits (deterring young people from smoking and supporting adults to quit) have been achieved.

On the cost side, the evidence presented shows that the costs set out in the original IA were accurate and within acceptable limits. Though it is difficult to estimate the direct effect of these regulations, the evidence has shown that the ban was followed by “a decline in trend of smoking prevalence that could not be accounted for by seasonal factors, e-cigarette use or price changes”. As demonstrated, the health benefits of this decline will significantly exceed the costs.

Furthermore, there were no unintended consequences raised during consultation or in follow-up interviews and compliance with the regulations has been very high.

Overall, the evidence presented provides a strong argument for the retention of the regulations in their present form. The objectives remain appropriate, are being met by the regulation, and would be undermined by any relaxation, potentially reducing longer term health benefits. Strengthening the regulations, as discussed above are likely to result in further costs to business, but with a high level of uncertainty around additional health benefits. Furthermore, the relatively limited number of consultation responses suggesting changes to the regulation, indicates that most stakeholders are content with the regulations in their current form.

## Public consultations

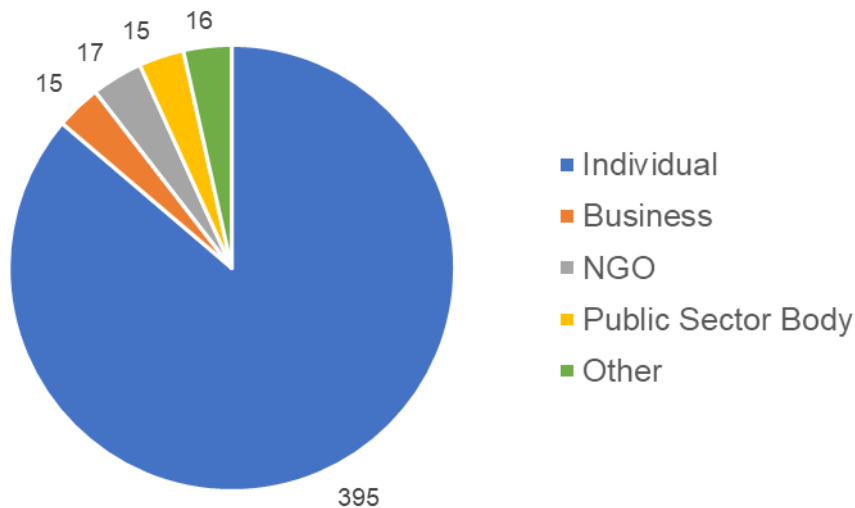
It is important to note that the response to the consultation is not representative of the population of England (and Wales where relevant).

Detailed results of the consultation are covered in this report, including quantitative analysis of the responses. It is important to note however that no statistical weight can be placed on the numerical results of the consultation. This section summarises the various themes emerging in the responses to each of the display regulations, from a range of stakeholders. There was also a wide diversity in the detail of responses, with many individuals not providing reasons for a certain view, while other respondents provided a range of evidence and discussion to support their view. Each response was considered in light of the evidence provided to support it, including the sources relied upon.

## Online consultation form demographics

The majority of these respondents were individuals, though there were a few responses from non-governmental organisations (NGOs), public bodies, and businesses.

Figure 1: Number of responses received to the consultation, by capacity of response



## Summary of the consultation results

### Display ban legislation

For this consultation questions were asked on: *whether the display ban had helped to reduce the number of children and young people smoking; whether adults were supported to quit; the impacts on other stakeholders (general public, retailers, manufacturers); and whether there were any economic impacts.*

Summary of the results on the specific questions is presented below.

**Do you think the display ban of tobacco in small and large shops has helped to reduce the number of children and young people smoking?**

The responses to the first part, broken down by the capacity in which they responded, are as follows

	Evidence Provided				No Evidence Provided			
	#	Yes	No	Don't Know	#	Yes	No	Don't Know
<b>Total</b>	<b>37</b>	<b>65%</b>	<b>30%</b>	<b>5%</b>	<b>404</b>	<b>28%</b>	<b>50%</b>	<b>23%</b>
Individual	1	100%	0%	0%	383	27%	50%	22%
Businesses	6	0%	100%	0%	6	0%	83%	17%
NGO	10	80%	10%	10%	3	100%	0%	0%
Public Sector Body	11	100%	0%	0%	2	100%	0%	0%
Other	9	44%	44%	11%	10	30%	30%	40%

**Do you think the tobacco display ban has encouraged and supported adult smokers to quit?**

The responses to the first part, broken down by the capacity in which they responded, are as follows:

	Evidence Provided				No Evidence Provided			
	#	Yes	No	Don't Know	#	Yes	No	Don't Know
<b>Total</b>	<b>29</b>	<b>76%</b>	<b>14%</b>	<b>10%</b>	<b>410</b>	<b>20%</b>	<b>65%</b>	<b>15%</b>
Individual	1	100%	0%	0%	382	19%	66%	15%
Businesses	1	0%	100%	0%	11	9%	82%	9%
NGO	8	88%	0%	13%	4	0%	75%	25%
Public Sector Body	10	100%	0%	0%	3	100%	0%	0%
Other	9	44%	33%	22%	10	50%	40%	10%

**Is the display ban an effective way to protect children and young people from taking up smoking and supporting those who wish to quit?**

The responses to the first part, broken down by the capacity in which they responded, are as follows:

	Evidence Provided				No Evidence Provided			
	#	Yes	No	Don't Know	#	Yes	No	Don't Know
<b>Total</b>	<b>23</b>	<b>83%</b>	<b>13%</b>	<b>4%</b>	<b>413</b>	<b>30%</b>	<b>54%</b>	<b>16%</b>
Individual	7	43%	43%	14%	371	31%	53%	16%
Businesses	0	-	-	-	13	8%	85%	8%
NGO	5	100%	0%	0%	8	38%	38%	25%
Public Sector Body	8	100%	0%	0%	6	50%	50%	0%
Other	3	100%	0%	0%	15	27%	53%	20%

## Were there any economic losses or gains (for individuals, businesses and wider society) associated with implementing the display ban on tobacco products?

The responses to the first part, broken down by the capacity in which they responded, are as follows:

	Evidence Provided				No Evidence Provided			
	#	Yes	No	Don't Know	#	Yes	No	Don't Know
<b>Total</b>	<b>23</b>	<b>96%</b>	<b>4%</b>	<b>0%</b>	<b>403</b>	<b>57%</b>	<b>13%</b>	<b>30%</b>
Individual	6	83%	17%	0%	363	56%	14%	30%
Businesses	0	-	-	-	13	62%	8%	31%
NGO	4	100%	0%	0%	9	67%	11%	22%
Public Sector Body	10	100%	0%	0%	4	75%	0%	25%
Other	3	100%	0%	0%	14	79%	0%	21%

The overall view of respondents who provided no evidence was negative, with over half of this respondent category stating that the legislation had not met its original objectives of reducing the number of young people smoking and helping adults to quit.

The majority of those who submitted evidence including health-related NGOs, local public sector health bodies and academics, reported that the display ban was successful in meeting the stated objectives:

- The general view was the tobacco display ban had contributed to a 'de-normalising' effect on tobacco smoking, making it unattractive for young people. Most stakeholders cited a range of evidence papers (including some of those discussed above). A number of these papers focused on the effect of tobacco displays as a form of promotion, increasing the susceptibility of young people to smoking initiation.
- Another widely held view amongst this group was that these regulations were successful as part of a comprehensive regulatory approach. One Public Health body pointed out that point of sale tobacco promotion bans are now an internationally recognised approach to tobacco control, supported by WHO and implemented in at least 60 countries worldwide.
- In terms of adult smokers, most of these stakeholders reported and presented evidence that the display ban had supported quitting by reducing the number of impulse purchases, as tobacco was less visible in shops where adults would regularly shop.
- In terms of economic gains or losses, most of this stakeholder group felt that the economic gains from improving overall health would outweigh any losses to retailers. Most acknowledged that retailers, including many small shops, had incurred some additional costs for cabinet/gantry installation, but that these costs were relatively minor and, in some cases, had been subsidised by tobacco manufacturers.
- Tobacco companies' responses suggested that shops had experience initial implementation costs as well as daily costs associated with serving and restocking customer. They claimed the regulation damaged legitimate competition. Trade bodies and associations however, reported that the average cost of implementation was just under £5,000.

While the response from the group who submitted evidence was positive, some NGOs stated that it was difficult to attribute the decline in smoking in young people (and adults) to any single regulatory intervention.

The consultation also asked if any other stakeholders had been affected by the display ban. The main detailed responses to this question were focused around compliance. Most of this group of

stakeholders thought that compliance was high, but that budget cuts may affect local organisations' abilities to do sufficient checks.

In terms of individuals, just over a quarter thought the display ban was helping to reduce the number of young people smoking (with around a fifth thinking that it helped to support adults quit). Of these individuals the most common reason for this view is that the display ban removes the visual reminder, making it more difficult for young people to ask for cigarettes while also removing the temptation to make impulse purchases for adults trying to quit. It should be noted that individual respondents were the least likely to supply evidence to support their answer.

Individuals who had a negative view of the display ban made up just over half of respondents surveyed. Most respondents did not provide an explanation for this view. However, where given, the most common reason was that the display ban causes frustration and inconvenience during the purchasing process. This does not specifically tally with the question asked on whether the display ban has helped to reduce young people smoking or adults quitting. However, some individual respondents reported that the display ban could be ineffective as the forbidden nature of smoking may make it more attractive to young people.

### **Specialist tobacconist consultation**

This consultation covered the same range of questions as the main display ban regulation c: *whether the display ban had helped to reduce the number of children and young people smoking; whether adults were supported to quit; the impacts on other stakeholders; and whether there were any economic impacts.*

Summary of the results on the specific questions is presented below.

### **Do you think the display ban of tobacco in specialist tobacconists has helped to reduce the number of children and young people smoking?**

The responses to the first part, broken down by the capacity in which they responded, are as follows:

	Evidence was provided				No evidence was provided			
	#	Yes	No	Don't Know	#	Yes	No	Don't Know
<b>Total</b>	<b>11</b>	<b>91%</b>	<b>0%</b>	<b>9%</b>	<b>356</b>	<b>20%</b>	<b>55%</b>	<b>25%</b>
Individual	1	100%	0%	0%	308	19%	55%	27%
Businesses	0	-	-	-	13	8%	77%	15%
NGO	3	100%	0%	0%	10	30%	50%	20%
Public Sector Body	5	100%	0%	0%	9	56%	33%	11%
Other	2	50%	0%	50%	16	31%	56%	13%

**Do you think the display ban in specialist tobacconists has encouraged and supported adult smokers to quit?**

The responses to the first part, broken down by the capacity in which they responded, are as follows:

	Evidence Provided				No Evidence Provided			
	#	Yes	No	Don't Know	#	Yes	No	Don't Know
<b>Total</b>	<b>1</b>	<b>0%</b>	<b>100%</b>	<b>0%</b>	<b>359</b>	<b>18%</b>	<b>60%</b>	<b>23%</b>
Individual	0	-	-	-	305	14%	61%	25%
Businesses	1	0%	100%	0%	11	9%	91%	0%
NGO	0	-	-	-	13	46%	38%	15%
Public Sector Body	0	-	-	-	14	71%	21%	7%
Other	0	-	-	-	16	25%	63%	13%

**Has the display ban within specialist tobacconists had any further impacts not covered in the questions above?**

The responses to the first part, broken down by the capacity in which they responded, are as follows:

*There was no evidence observed in response to this particular question.*

	Evidence Provided				No Evidence Provided			
	#	Yes	No	Don't Know	#	Yes	No	Don't Know
<b>Total</b>	<b>0</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>348</b>	<b>26%</b>	<b>27%</b>	<b>47%</b>
Individual	0	-	-	-	294	25%	25%	50%
Businesses	0	-	-	-	11	36%	55%	9%
NGO	0	-	-	-	13	31%	31%	38%
Public Sector Body	0	-	-	-	14	29%	43%	29%
Other	0	-	-	-	16	38%	31%	31%

**Is the display ban in specialist tobacconists an effective way to protect children and young people from taking up smoking and supporting those who wish to quit?**

The responses to the first part, broken down by the capacity in which they responded, are as follows:

	Evidence Provided				No Evidence Provided			
	#	Yes	No	Don't Know	#	Yes	No	Don't Know
<b>Total</b>	<b>12</b>	<b>8%</b>	<b>83%</b>	<b>8%</b>	<b>346</b>	<b>20%</b>	<b>61%</b>	<b>19%</b>
Individual	3	0%	67%	33%	300	20%	61%	19%
Businesses	0	-	-	-	12	17%	83%	0%
NGO	4	25%	75%	0%	9	11%	44%	44%
Public Sector Body	5	0%	100%	0%	9	22%	56%	22%
Other	0	-	-	-	16	19%	69%	13%

## Were there any economic losses or gains (for individuals, businesses and wider society) associated with carrying out this regulation in the community?

The responses to the first part, broken down by the capacity in which they responded, are as follows:

	Evidence Provided				No Evidence Provided			
	#	Yes	No	Don't Know	#	Yes	No	Don't Know
<b>Total</b>	<b>12</b>	<b>83%</b>	<b>8%</b>	<b>8%</b>	<b>339</b>	<b>48%</b>	<b>9%</b>	<b>42%</b>
Individual	3	67%	33%	0%	292	46%	10%	43%
Businesses	0	-	-	-	12	58%	8%	33%
NGO	3	100%	0%	0%	10	70%	0%	30%
Public Sector Body	5	100%	0%	0%	9	56%	0%	44%
Other	0	-	-	-	16	63%	0%	38%

Overall, responses from those who did not submit evidence were negative about the impact of the display ban within specialist tobacconists. Over half of these respondents stated that the regulation had not achieved its original objectives of reducing the number of young people smoking and helping adults to quit.

Those who submitted evidence reported that the legislation for specialist tobacconists was meeting the stated objectives:

- Most of this stakeholder group felt that the regulation was important and successful as part of the wider suite of display ban regulations supporting young people to not start smoking, by not having the products on display, minimising impact of tobacco promotion on passers-by. This argument was also made for adults, who would no longer be exposed to tobacco promotions in specialist shop windows. A number of these stakeholders also felt that this regulation could be further expanded to not allow under 18s into these shops.
- In terms of the economic effects of this regulation, these stakeholders mentioned that only minor changes were required for retailers to comply, so the overall compliance costs were relatively minor.

Those who did not supply evidence reported that the regulation had not been successful in meeting the stated objectives:

- The main opinion of this group was that these regulations are ineffective as young people do not use or buy other tobacco products (OTPs) or frequent specialist tobacconists. One retailer noted that they already have signs stating that under 18s are not allowed in the shops. Similarly, for adults, this group stated that the adult customer base will have specific needs and tastes (e.g. for cigars, pipes etc) that will not affect overall smoking prevalence.
- In terms of the economic effect, the specialist retailers reported reductions in footfall and a reduced product range. Retailers also mentioned lost sales, but did not provide specific evidence to support this claim and there was only one mention of “significant investment” being required to comply with the regulations. One retailer stated that it was unnecessary to force these products out of sight of young people (who would not use them anyway) and this was another blow to UK high streets.
- There were those who provided evidence to support their claims that the regulation was not meeting its objectives. Specifically, some respondents supplied evidence that the regulation had not helped to reduce the number of children and young people smoking, suggesting that in order to see the required impact on young people smoking and adult quit rates, the regulation would need to go further, with a total ban on under 18-year olds

entering specialist tobacconists. There was also a view that since there are only a few specialist tobacconists, the regulations target a niche clientele.

Most individual respondents answered that the regulations had not helped support the objectives of reducing the number of young people smoking and helping adults to quit. Where a reason was provided for this answer, around a quarter of respondents thought that young people should not be allowed or welcome in special tobacconists. Individual respondents provided little evidence to support their answers.

### ***Display of prices regulation consultation***

As with the prohibition of display of tobacco and regulations around specialist tobacconists, the questions were: *whether the restrictions on display of prices had helped to reduce the number of children and young people smoking; whether adults were supported to quit; the impacts on other stakeholders (retailers, manufacturers); and whether there were any economic impacts.* Summary of the results on the specific questions are presented below.

#### **Have the restrictions on the display of prices of tobacco products helped reduce the number of children and young people smoking?**

The responses to the first part, broken down by the capacity in which they responded, are as follows:

	Evidence Provided				No Evidence Provided			
	#	Yes	No	Don't Know	#	Yes	No	Don't Know
<b>Total</b>	<b>19</b>	<b>68%</b>	<b>16%</b>	<b>16%</b>	<b>363</b>	<b>20%</b>	<b>61%</b>	<b>19%</b>
Individual	7	43%	43%	14%	318	18%	61%	21%
Businesses	0	-	-	-	13	15%	77%	8%
NGO	4	100%	0%	0%	9	44%	56%	0%
Public Sector Body	6	100%	0%	0%	8	50%	50%	0%
Other	2	0%	0%	100%	15	40%	47%	13%

#### **Have the restrictions on the display of prices of tobacco products helped encourage and support adult smokers to quit?**

The responses to the first part, broken down by the capacity in which they responded, are as follows:

	Evidence Provided				No Evidence Provided			
	#	Yes	No	Don't Know	#	Yes	No	Don't Know
<b>Total</b>	<b>15</b>	<b>80%</b>	<b>13%</b>	<b>7%</b>	<b>365</b>	<b>14%</b>	<b>69%</b>	<b>17%</b>
Individual	6	50%	33%	17%	317	12%	71%	17%
Businesses	0	-	-	-	13	8%	77%	15%
NGO	4	100%	0%	0%	9	22%	67%	11%
Public Sector Body	5	100%	0%	0%	9	56%	44%	0%
Other	0	-	-	-	17	29%	47%	24%



## Is restricting the display of prices of tobacco products an effective way to protect children and young people from taking up smoking and support those who wish to quit?

The responses to the first part, broken down by the capacity in which they responded, are as follows:

	Evidence Provided				No Evidence Provided			
	#	Yes	No	Don't Know	#	Yes	No	Don't Know
<b>Total</b>	<b>16</b>	<b>88%</b>	<b>6%</b>	<b>6%</b>	<b>354</b>	<b>17%</b>	<b>67%</b>	<b>16%</b>
Individual	3	67%	0%	33%	311	16%	67%	17%
Businesses	1	0%	100%	0%	11	9%	91%	0%
NGO	4	100%	0%	0%	9	44%	44%	11%
Public Sector Body	7	100%	0%	0%	7	14%	86%	0%
Other	1	100%	0%	0%	16	31%	44%	25%

## Were there any economic losses or gains (for individuals, businesses and wider society) associated with carrying out this regulation in the community?

The responses to the first part, broken down by the capacity in which they responded, are as follows:

	Evidence Provided				No Evidence Provided			
	#	Yes	No	Don't Know	#	Yes	No	Don't Know
<b>Total</b>	<b>16</b>	<b>100%</b>	<b>0%</b>	<b>0%</b>	<b>339</b>	<b>42%</b>	<b>17%</b>	<b>40%</b>
Individual	2	100%	0%	0%	297	40%	19%	41%
Businesses	0	-	-	-	12	58%	17%	25%
NGO	3	100%	0%	0%	10	60%	0%	40%
Public Sector Body	9	100%	0%	0%	5	20%	20%	60%
Other	2	100%	0%	0%	15	73%	7%	20%

Overall, most respondents who provided no evidence answered negatively, with over half answering that the regulation had not achieved its original objectives of reducing the number of young people smoking and helping adults to quit. This stakeholder group reported that it was difficult to attribute a decline in smoking to these regulations, reiterating the opinion that this was part of a natural decline in smoking. Some stated that regulation had caused loss of revenue for retailers/manufacturers, others expressed anger and frustration at “government interference”.

The majority of those providing evidence suggested that the regulation was meeting the stated objectives:

- Some of these stakeholders reported that the regulation was successful as part of the wider suite of tobacco display regulations, applying to both young people and adults. More specifically, a health-related NGO provided evidence that the price of tobacco has traditionally been an important marketing tool for tobacco companies, particularly in targeting those in lower socio-economic groups. However, a number of these respondents also reported the difficulty of attributing a decline in smoking to these specific regulations.
- In terms of the economic effects, these stakeholders reported that this regulation would help to contribute to a healthier population in combination with the other display regulations.
- It was also reported that whilst compliance is high, the addition of further tobacco legislation requiring enforcement does stretch local authority resources involved in compliance.

## **Summary**

The results above show that the majority of respondents to the consultation felt that the display ban had not achieved its objectives. However, many respondents provided no evidence to support this view. Those who provided evidence suggested that the ban had been successful in achieving its stated aims.

DHSC considered this outcome together with that of the commissioned and peer reviewed research to provide a robust and consistent body of evidence, supported by the key indicator data.

All the results considered together show that the point of sale display ban has been successful in reducing smoking prevalence amongst young people and supporting adults to quit.

# The Smoke-free (Private Vehicles) Regulations 2015

## Background to legislation

Exposure to second-hand smoke (SHS) is hazardous to health. Evidence shows SHS is a real and substantial threat to children's health, causing a variety of adverse effects including; increased susceptibility to lower respiratory tract infections such as pneumonia and bronchitis, worsening of asthma, middle ear disease, decreased lung function, and sudden infant death syndrome.

Children are more vulnerable to SHS exposure in general but in particular in vehicles. They breathe more rapidly, inhaling more pollutants than adults. They are also less able to exert their choice to leave a private vehicle and/or request an adult to stop smoking in a private vehicle.

In February 2014, Parliament voted in favour of introducing legislation to make private vehicles carrying children smoke-free. Government intervention was deemed necessary to prevent SHS from adversely affecting the health of children in private vehicles, where the levels of SHS can be significantly more concentrated.

## Evidence and analysis

In this section we will consider the quantitative and qualitative evidence available to assess whether the introduction of the regulations has achieved its original objective.

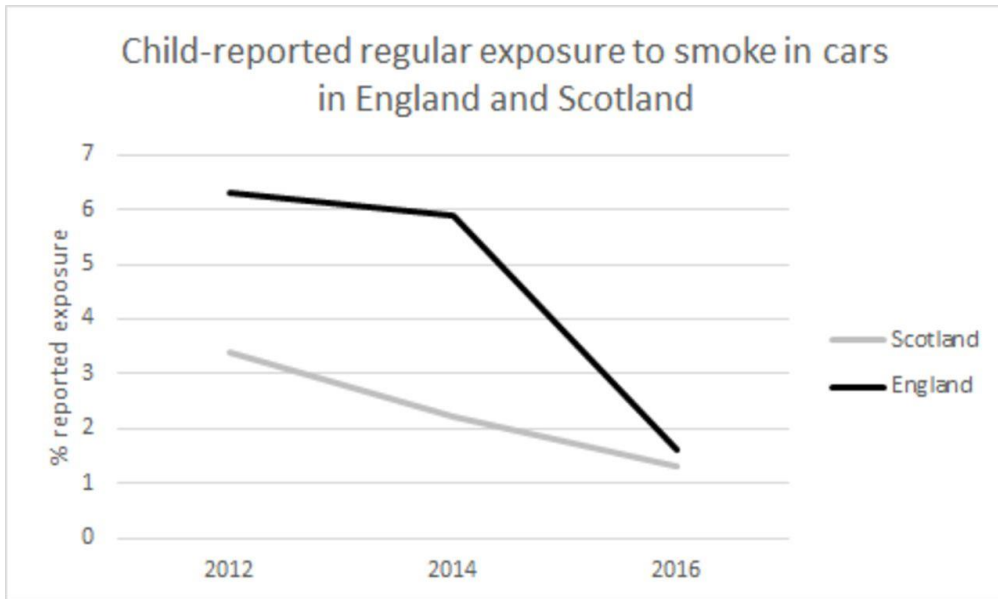
## Findings of commissioned studies

A UK study<sup>35</sup> commissioned by the National Institute for Health Research (NIHR) specifically considered the impact of banning smoking in cars with children on exposure to SHS using longitudinal survey data from England and Scotland. The ban was implemented separately in each country (2015 in England, 2016 in Scotland), so a difference-in-difference approach was used to assess the impact. The data used was 13-15-year old's self-reported levels of regular exposure to smoke in cars. Among those children, exposure to smoke in cars in Scotland was 3.4% in 2012, 2.2% in 2014 and 1.3% in 2016. In England, this was 6.3% 2012, 5.9% in 2014 and 1.6% in 2016. Compared with the counter-factual scenario, the ban was associated with a **72% reduction in self-reported exposure to tobacco smoke among children** compared to the Scotland trend.

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<sup>35</sup> Lavery, A., Hone, T., Anyanwu, P., Robinson, D., Vocht, F., Millett, C. and Hopkinson, N. (2019). Impact of banning smoking in cars with children on exposure to second-hand smoke: a natural experiment in England and Scotland.

Figure 7: Percentages of children that reported regular exposure in England and Scotland with and without policy implementation (Source: Laverty et al., 2020)



A report<sup>36</sup> commissioned by DHSC and carried out by Chartered Institute of Environmental Health and Improving Performance in Practice considered the level of compliance with the Smoke-Free (Private Vehicles) legislation. 255 vehicles were inspected at 8 locations, in two different areas of England. Compliance was high, with no contraventions of the legislation in any vehicle. Awareness and support for the legislation was also high amongst those interviewed, but some parents thought the punishment was not severe enough and that police needed to play a greater role. Whilst this report shows positive results, the sample size is small and very few people surveyed were smokers, with 93% of cars showing no evidence of smoking having occurred recently in the vehicle.

### Findings of peer reviewed studies

A Lancet paper<sup>37</sup> published in 2019 investigated the effect of England’s smoke-free private vehicle regulation on changes in tobacco smoke exposure and respiratory disease in children. Using data from the Health Survey from England from 2008 to 2017, the study found no clear association between the implementation of the regulation and changes in self-reported tobacco smoke exposure/respiratory health. 1 in 20 children still reported being regularly exposed to tobacco smoke in cars and 1 in 20 had detectable salivary cotinine levels. Despite this, the authors noted that their review of other smoke-free legislation was associated with substantial child benefits over a longer period of time post-implementation. However, it was noted that given the number of children remaining exposed to SHS, more effective approaches are needed to combat this issue.

<sup>36</sup> CIEH, iPiP (2016) *Smoke-free (Private Vehicles) Regulations 2015: Demonstration projects using compliance measures in controlled locations*, <https://www.cieh.org/media/3249/smoke-free-private-vehicles-regulations-2015.pdf>

<sup>37</sup> Faber, T., Mizani, M., Sheikh, A., Mackenbach, J., Reiss, I. and Been, J. (2019). *Investigating the effect of England's smoke-free private vehicle regulation on changes in tobacco smoke exposure and respiratory disease in children: a quasi-experimental study*. The Lancet Public Health.

A study from 2017<sup>38</sup> assessed the impact of California's 2007 smoke-free vehicles law on changes in the self-reported exposure to smoking in cars. It also aimed to assess how reported exposure was associated to lifetime asthma diagnosis as well as students' intention to smoke in the future. Data from both the California Student Tobacco Survey and National Youth Tobacco survey were used to analyse the change in the decline of reported exposure pre and post ban. Between 2001 and 2005, the proportion of students reporting exposure in the last seven days declined less than 1% annually. However, post ban between 2007 and 2011, this annual decline in exposure to smoking in cars was 12%, supporting the legislative intention to protect children from SHS. In terms of health outcomes, relative to zero SHS exposure in a car, students were more likely to report asthma diagnosis, and were more likely to smoke in the next year if they had had 3-7 days of SHS exposure in cars.

## **Results from key indicator data**

### **Health impacts**

The main objective of the regulation is to:

- Protect children from the health harms associated with exposure to second-hand smoke in private cars.

Further objectives include to:

- Encourage action by smokers to protect children from second-hand smoke;
- In time, lead to a reduction in health conditions in children caused by exposure to second-hand smoke.

### **Smoke-Free (Private Vehicles) Key Indicators**

The main short-term health key indicator identified to measure the impact of the smoke-free (Private Vehicles) legislation in 2015 is the level of exposure to second-hand smoke for children.

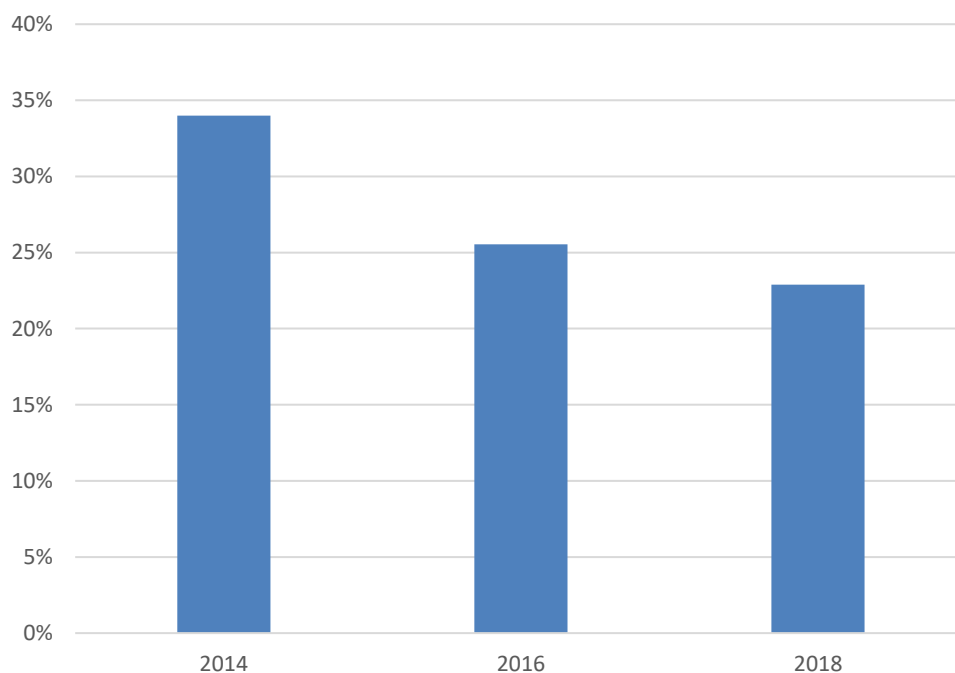
This is tracked for 11-15-year olds through the Smoking, Drinking and Drug use among Young People in England Survey, and splits the exposure into at home exposure and in cars exposure. Up until 2012, the survey only asked about exposure in a family car. Data from 2014 asks about smoking exposure in a family or other person's car. Whilst this is a more accurate representation, it does mean data before and after 2014 is not directly comparable.

Data from 2014 exists (before the ban was enforced in 2015), so we can compare pre and post implementation. In 2014 the percentage of 11-15-year-old children being exposed to second-hand smoke in a car in the last year was 34%. In 2016, 1 year after the ban, this figure had dropped to 26%, and then in 2018 had dropped further to 23%.

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<sup>38</sup> Patel et al (2018) *Smoke-Free Car Legislation and Student Exposure to Smoking*, [https://pediatrics.aappublications.org/content/pediatrics/141/Supplement\\_1/S40.full.pdf](https://pediatrics.aappublications.org/content/pediatrics/141/Supplement_1/S40.full.pdf)

Figure 8: Self-reported exposure to any SHS in a car by 11 to 15 year olds (Source: Smoking, Drinking and Drug use among Young People in England)



The frequency of exposure is broken down into 4 categories of shown in Figure 9. The percentage of children with daily exposure was 6% in 2014 and has dropped further to 4% in 2016 and 3% in 2018.

Figure 10 shows a split by age. Exposure of younger children (aged 11) to smoke in cars has almost halved since 2014, from 31% to 16%. For older children (aged 15) the proportion is higher and only declined by 13 percentage points (from 40% in 2014 to 27% in 2018).

In addition to exposure to SHS, other key indicators for this regulation are the same as those of the display ban, such as smoking prevalence amongst young people. Evidence<sup>39</sup> suggests that being exposed to second-hand smoke makes younger people more likely to smoke, therefore any reduction in exposure could reduce this chance. As shown above (Figures 7 and 8), smoking prevalence among young people has declined since the introduction of this regulation in 2015.

The main indicators show a general decline in youth exposure to second-hand smoke in cars. This is likely to be at least partially influenced by the Smoke free vehicles legislation.

<sup>39</sup> Young people who smoke: <https://digital.nhs.uk/data-and-information/publications/statistical/smoking-drinking-and-drug-use-among-young-people-in-england/2018/part-3-young-people-and-smoking>

Figure 9: Reported frequency of exposure to SHS in cars by 11 to 15-year-olds (Source: Smoking, Drinking and Drug use among Young People in England)

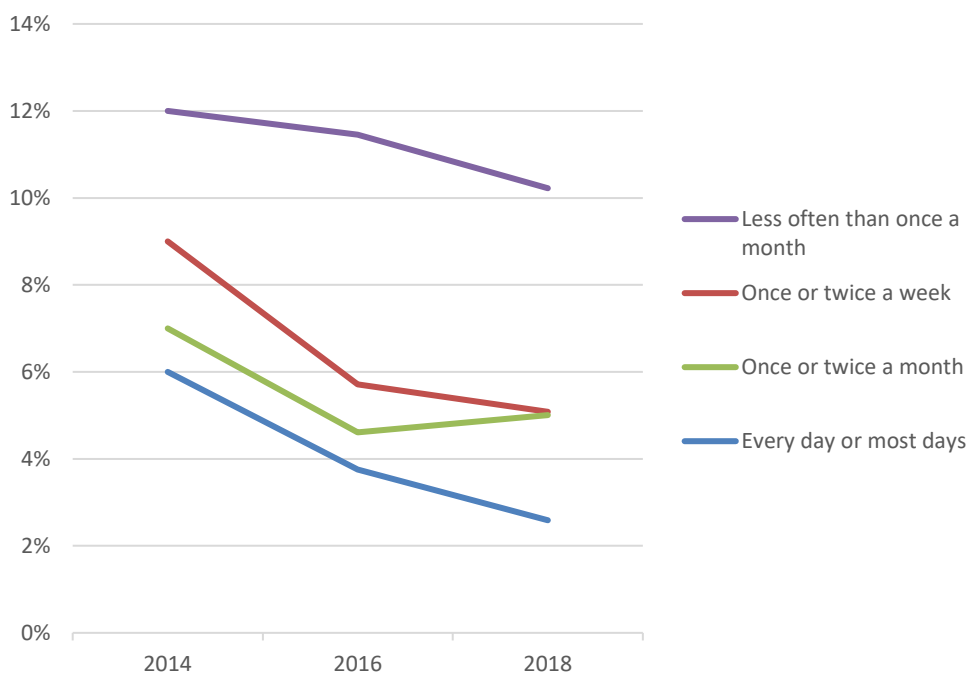
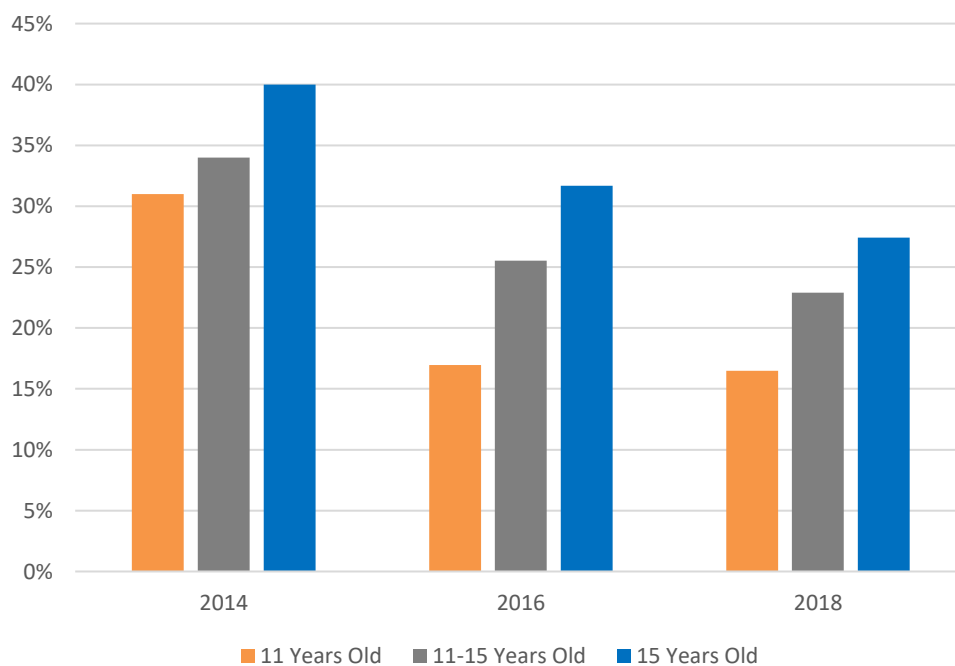


Figure 10: Self-reported exposure to SHS in a car, by year and by age for 11-year-olds, all those 11 to 15 years old, and 15 years old (Source: Smoking, Drinking and Drug use among Young People in England)



## Economic impacts

### ***Evaluation of costs***

The net costs of the Smoke-Free (Private Vehicles) were estimated in the Impact Assessment to be £768,000 over a 10 year period. These costs were based on the IA's assumption that roughly 2,100 FPNs would be issued each year, despite an estimated compliance level of 95%. These were costs for public services associated with the issuing of Fixed Penalty Notices (FPNs) for infringements. The costs were split:

- £352,000 in estimated court proceedings for the justice system. This was derived from the number of court hearings that took place for infringing the Smoke-free 2007 laws. For each case, a cost to the CPS and HMCTS would be around £500
- £416,000 in police costs for both the time taken to issue an FPN as well as administrative costs. This was mainly based on 30 minutes of a police officers time to issue the notice.

The IA also assumed that each FPN issued would be paid to the sum of £50. Hence, if 2,100 were given out each year, the total amount paid discounted over 10 years would be £860,000, resulting in a net profit.

The actual costs observed can be assumed to be much lower. We do not have data on the number of FPNs issued as official figures were not recorded until June 2019. Reports have suggested that due to the difficulty of enforcing the ban, very few FPNs have been issued since the legislation came into force in 2015<sup>40</sup>. Verbal warnings are thought to be more common. We would therefore assume that costs since implementation have been negligible. Despite the difficulty of enforcement, the indicator data above suggests that knowledge of the legislation will act as a deterrent to people smoking in cars.

### ***Evaluation of benefits***

The original Impact Assessment estimated that, as a result of the legislation, the benefits would be a gain of 540 quality adjusted life years (QALYs) valued at £60,000, totalling £32.6m over a ten-year period. This is based on reduced demand for smoking-related NHS treatments which in turn would enable the treatment of other patients. The reduced demand was based on the number of fewer SHS related incident disease cases – which, for the ten-year period, was assumed to be roughly 69,116 without intervention. Following intervention, the IA assumed around 66,000 fewer cases. This represented £8.1m in cost savings for the NHS, who spend roughly £15,000 per QALY.

There were wider benefits considered in the IA but not included towards the monetary benefits. For example, a reduction in the number of adults smoking whilst driving might reduce the number of driving accidents, as one study found that smoking can act as a distraction. Smokers have an increased crash risk compared to non-smokers and smoking was a source of distraction in 1% of distraction related crashes<sup>41</sup>. Also noted were productivity gains for children who don't suffer from illnesses, who will continue to be more productive when they enter the labour market.

Another factor is the possible reduction in uptake of children smoking due to less exposure and the de-normalisation of smoking. This could contribute to the benefits estimated in the display ban section.

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<sup>40</sup> <https://www.independent.co.uk/news/uk/home-news/law-ban-smoking-cars-children-one-fine-in-first-year-a7416186.html>

<sup>41</sup> Young K et al. (2003) *Driver Distraction: A Review of the literature*, Monash University Accident Research Centre



The health benefits were expected to be realised in the long term, and so it is still too early to be able to say whether the reduction in the number of cases related to SHS has been achieved. Despite the findings of the Lancet paper, the level of self-reported SHS exposure by children has decreased<sup>42</sup> and so we can assume that a portion of the health benefits are already being seen, though further long-term studies would be required to quantify this effect.

Overall, the evidence available and the indicator data show lower exposure to second-hand smoke has been realised since the implementation of these regulations. Given the associated health benefits and possible secondary effects of less accidents and lower uptake of smoking in youths it is very likely that the health benefits discussed here will comfortably outweigh the negligible costs of this scheme.

## **The social and public aspect**

There has been strong public support for the Smoke-Free (Private Vehicles) legislation. A YouGov poll<sup>43</sup> in 2014 asked over 1000 adults whether they supported banning smoking in cars if there was someone under 18 present: 81% supported this, with only 13% opposing it.

## **Stakeholder consultations**

### ***Summary of findings***

As with the other regulations, results of this consultation may not be representative of the England and Wales population, or specific stakeholders who responded.

For the consultation the questions asked whether: *The Smoke-free Regulations had helped prevent people from smoking in vehicles with children (and a further question on whether the regulation was effective); and if there were any economic losses or gains associated with carrying out this regulation in the community.*

Summary of the results on the specific questions is presented below.

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<sup>42</sup> Smoking, Drinking, and Drug use among young people in England, 2019

<sup>43</sup> YouGov Poll, Q7 [http://cdn.yougov.com/cumulus\\_uploads/document/x92usdm50a/YouGov-Survey-Smacking-Smoking-eCigarettes-140411.pdf](http://cdn.yougov.com/cumulus_uploads/document/x92usdm50a/YouGov-Survey-Smacking-Smoking-eCigarettes-140411.pdf)

## Have the Smoke-free (Private Vehicles) Regulations helped prevent people from smoking in vehicles with children?

The responses to the first part, broken down by the capacity in which they responded, are as follows:

	Evidence Provided				No Evidence Provided			
	#	Yes	No	Don't Know	#	Yes	No	Don't Know
<b>Total</b>	<b>26</b>	<b>81%</b>	<b>12%</b>	<b>8%</b>	<b>394</b>	<b>46%</b>	<b>34%</b>	<b>20%</b>
Individual	6	50%	33%	17%	356	48%	33%	19%
Businesses	1	0%	100%	0%	12	33%	58%	8%
NGO	5	100%	0%	0%	8	38%	50%	13%
Public Sector Body	10	100%	0%	0%	4	25%	25%	50%
Other	4	75%	0%	25%	14	21%	43%	36%

## Do you believe prohibiting smoking in private vehicles is an effective way to protect children and young people from harms of tobacco and second-hand smoke?

The responses to the first part, broken down by the capacity in which they responded, are as follows:

	Evidence Provided				No Evidence Provided			
	#	Yes	No	Don't Know	#	Yes	No	Don't Know
<b>Total</b>	<b>20</b>	<b>95%</b>	<b>5%</b>	<b>0%</b>	<b>395</b>	<b>54%</b>	<b>36%</b>	<b>10%</b>
Individual	4	75%	25%	0%	355	55%	35%	10%
Businesses	0	-	-	-	13	38%	62%	0%
NGO	5	100%	0%	0%	8	50%	25%	25%
Public Sector Body	9	100%	0%	0%	5	60%	40%	0%
Other	2	100%	0%	0%	14	43%	50%	7%

## Were there any economic losses or gains (for individuals, businesses and wider society) associated with carrying out this regulation in the community?

The responses to the first part, broken down by the capacity in which they responded, are as follows:

	Evidence Provided				No Evidence Provided			
	#	Yes	No	Don't Know	#	Yes	No	Don't Know
<b>Total</b>	<b>14</b>	<b>86%</b>	<b>0%</b>	<b>14%</b>	<b>377</b>	<b>20%</b>	<b>38%</b>	<b>42%</b>
Individual	3	67%	0%	33%	335	18%	39%	43%
Businesses	0	-	-	-	11	9%	55%	36%
NGO	4	75%	0%	25%	9	44%	22%	33%
Public Sector Body	6	100%	0%	0%	8	63%	13%	25%
Other	1	100%	0%	0%	14	43%	29%	29%

As with the other regulations, each response will be considered in light of the evidence provided to support it, including the sources relied upon.

For the questions about this regulation, a large proportion of respondents, including those who supplied evidence and those who did not, answered positively. For example, for the first question: 'Have the Smoke-free (Private Vehicles) Regulations helped prevent people from smoking in vehicles with children?', almost half of respondents answered Yes, and less than a third said 'No'. A similar result was recorded for the question on whether prohibiting smoking in

private vehicles was effective in preventing young people from harms of tobacco and second-hand smoke.

More detailed responses noted that:

- Recent survey data shows a reduction in second-hand smoke exposure, and high compliance with the regulation.
- The regulation had helped to provide awareness of the harms of second-hand smoke, and that it was an effective deterrent.
- There are resulting positive economic impacts due to the health benefits provided by reduced exposure to second-hand smoke.
- Whilst there are minimal losses to police/other authorities. Some also said that more could be done to enforce the regulation.

Trade bodies and associations were generally in support of the regulation. However, they did often express concerns about enforcement, stating it is a difficult regulation to enforce, and that further evaluation of the regulations was needed.

Tobacco companies presented similar concerns about enforcement in particular around lack of enforcement. They claimed the incidence of smoking in cars was very low even before the regulations, and one expressed that the Government should respect the rights of adults to choose what's best for them.

Individuals who provided reasons were split on this regulation. Those who responded in support of the regulations tended to emphasise:

- Fewer people smoking in cars with a minor as the regulation acted as a good deterrent, making it less socially acceptable to do so.
- Children were exposed to less second-hand smoke.
- Concerns about enforcement of the regulation.
- When asked about economic impacts, losses to the police and other authorities were mentioned, along with positive gains due to the health benefits the regulation would provide.

Those who were not in support of the regulations expressed more diverse views including:

- Major concerns about enforcement, saying the police were not enforcing this at all and that they still saw people smoking in cars with minors.
- Others felt that smoking in cars with minors wasn't common enough to be a concern, that there were no harms associated with tobacco smoke or that opening a window is a solution.
- For economic impacts, most said there would be no economic impacts to do with this regulation.

## **Summary**

The findings from across the full range of available evidence indicates that the Smoke-free vehicles legislation has achieved its original objectives. There was broad support from stakeholders that the legislation had achieved its aims. Peer reviewed studies also provided evidence that children were less likely to be exposed to SHS since the introduction of the ban, a finding supported by the official indicator data.

# The Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations 2015

## Background to legislation

Over the past 5-10 years, the market for nicotine inhaling products (NIPs) has developed rapidly. Given the emergence of e-cigarettes, coupled with concerns about their use by children and young people, the Government took the opportunity offered by the Children and Families Act to introduce regulation prohibiting the sale of nicotine products to persons under 18 years of age.

The policy objective of the regulations is to limit the sale of nicotine inhaling products, such as electronic cigarettes (and related products including refill cartridges and nicotine liquids) to adults only, with certain limited exceptions. The intended effect is to limit the availability of nicotine for young people (who may be attracted by flavoured tobacco) and prevent young people becoming addicted to nicotine before they are able to make informed, adult decisions. The regulations do not apply to tobacco products already covered by age of sale legislation.

## Evidence and analysis

In this section DHSC consider the quantitative and qualitative evidence available to assess the key questions for the review as outlined in section 3 above.

## Findings of peer reviewed studies

The IA into raising the age of sale for NIPs stated that there was uncertainty as to whether e-cigarettes lead to tobacco smoking in children (the “gateway” effect). Due to the large increase in e-cigarette prevalence across the world, there have been more studies done to assess the possibility of a gateway effect.

Public Health England’s (PHE) 2018 annual e-cigarette evidence review<sup>44,45</sup> covered the possible gateway into tobacco smoking. It noted that very few young never smokers became regular users of e-cigarettes. Cigarette smoking prevalence in the UK amongst young people continues to decline. However, never smokers who tried e-cigarettes are more likely to try smoking afterwards than those who have not tried e-cigarettes. A link between the two has not been found, and neither has a further progression into regular smoking.

A further study<sup>46</sup> published in November 2019 also investigated the possible link between e-cigarettes and smoking tobacco. They found that while the odds of ever smoking increased with both ever and regular e-cigarette usage, the odds of regular or current smoking did not significantly increase. This study of 12,000 children in the US suggests that there is no relationship between e-cigarette usage and regular smoking.

Generally, DHSC found that both domestic and international evidence was limited on the effect of increasing the age for NIPs. Therefore, the main evidence base for this piece of legislation comes from the PHE evidence review and the indicator data on e-cigarettes discussed below.

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<sup>44</sup> PHE Press Release: <https://www.gov.uk/government/news/phe-publishes-independent-expert-e-cigarettes-evidence-review>

<sup>45</sup> Evidence review of e-cigarettes and heated tobacco products 2018: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/684963/Evidence\\_review\\_of\\_e-cigarettes\\_and\\_heated\\_tobacco\\_products\\_2018.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/684963/Evidence_review_of_e-cigarettes_and_heated_tobacco_products_2018.pdf), p63-76

<sup>46</sup> <https://academic.oup.com/ntr/advance-article-abstract/doi/10.1093/ntr/ntz157/5570011?redirectedFrom=fulltext>

## Results from key indicator data

### Health impacts

The main objectives of the regulation are:

- To limit the availability of nicotine inhaling products to young people and;
- To restrict the scope for young people becoming addicted to nicotine and any gateway effect into smoking tobacco.

### Age of Sale (Nicotine Inhaling Products)

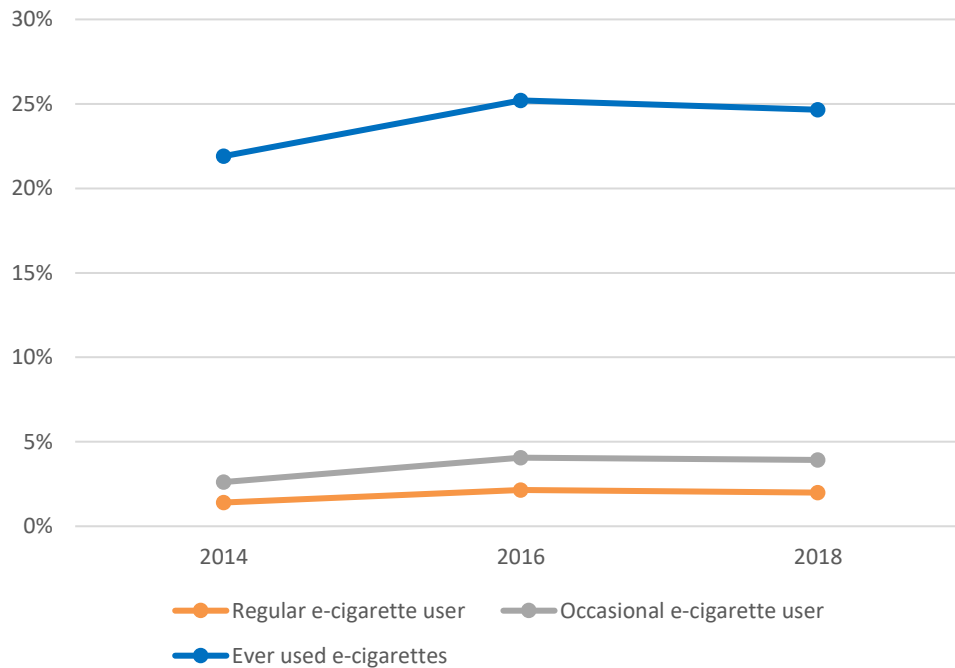
The key indicators used to measure the impact of the Age of Sale for Nicotine Inhaling Products (NIPs) legislation are the prevalence of e-cigarettes/NIPs among young people, as well as the level of youth nicotine addiction.

The Smoking, Drinking and Drug use among Young People survey is the source for both these indicators, covering school aged children from 11-15 years old. This report focuses on smoking prevalence, as dependency data is not a reliable enough indicator of nicotine addiction.

#### ***Trends in e-cigarette use***

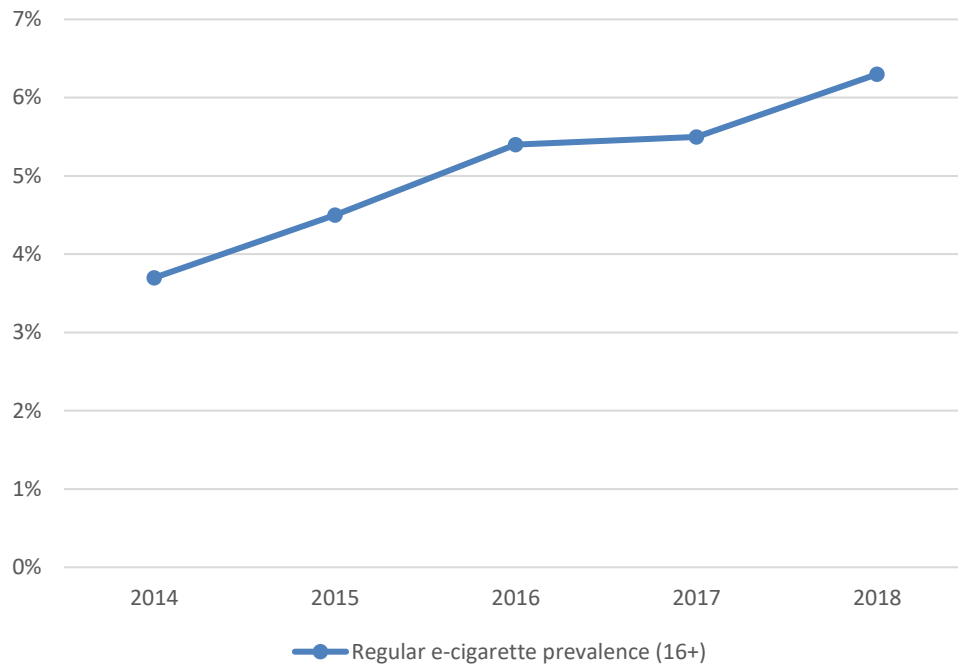
The trend in e-cigarette prevalence among young people (aged 11-15) has increased since 2014 (Figure 11). While the main increase in prevalence was between 2014 and 2016 for all types of users (ever used, occasional use, regular user), there were then minor decreases for all of these groups between 2016 and 2018. In 2018, around 1 in 4 young people had ever used an e-cigarette, with less than 5% being occasional users, and 2% were regular users.

*Figure 11: E-cigarette prevalence among young people between 2014 and 2018 (Source: Smoking, Drinking and Drug use among Young People in England)*



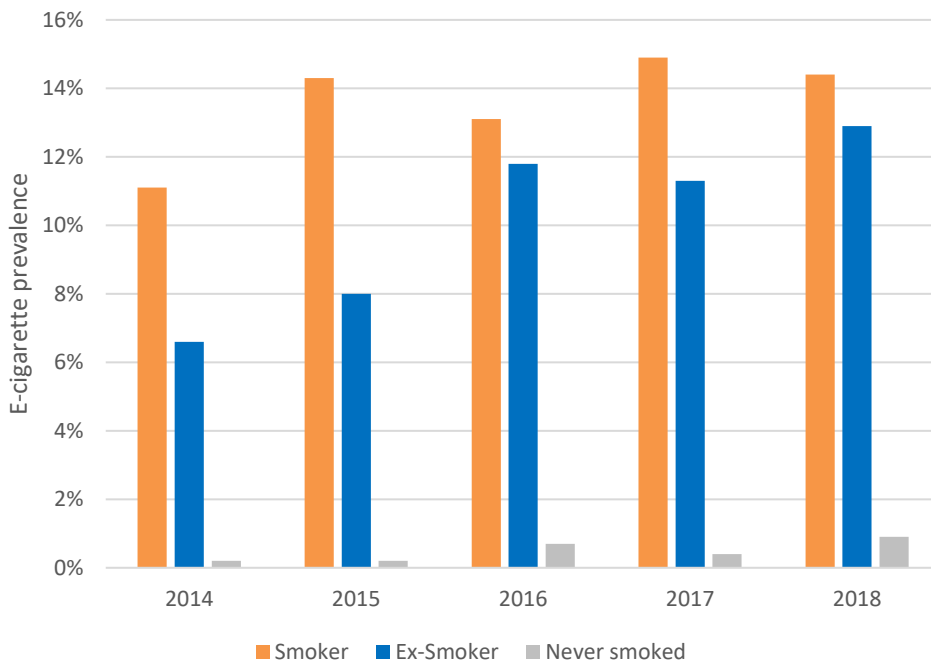
While youth smoking prevalence has plateaued since 2016, adult e-cigarette prevalence has continued to increase steadily. From 2014 to 2018, prevalence rose from 3.7% to 6.3%.

Figure 12: E-cigarette prevalence for those aged over 16, from 2014 to 2018 (Source: Adult Smoking Habits in the UK)



The ONS survey on e-cigarette prevalence also collects data on smoking status (smokers, ex-smokers, and never smokers). This shows that over 14% of smokers also use e-cigarettes. This has increased from 11% in 2014. Larger increases have been seen in e-cigarette use amongst ex-smokers. There was an increase in 2016 from 8% to 12%, with prevalence now 13% in 2018.

Figure 13: Regular e-cigarette prevalence by smoking status (Source: Adult Smoking Habits in the UK)

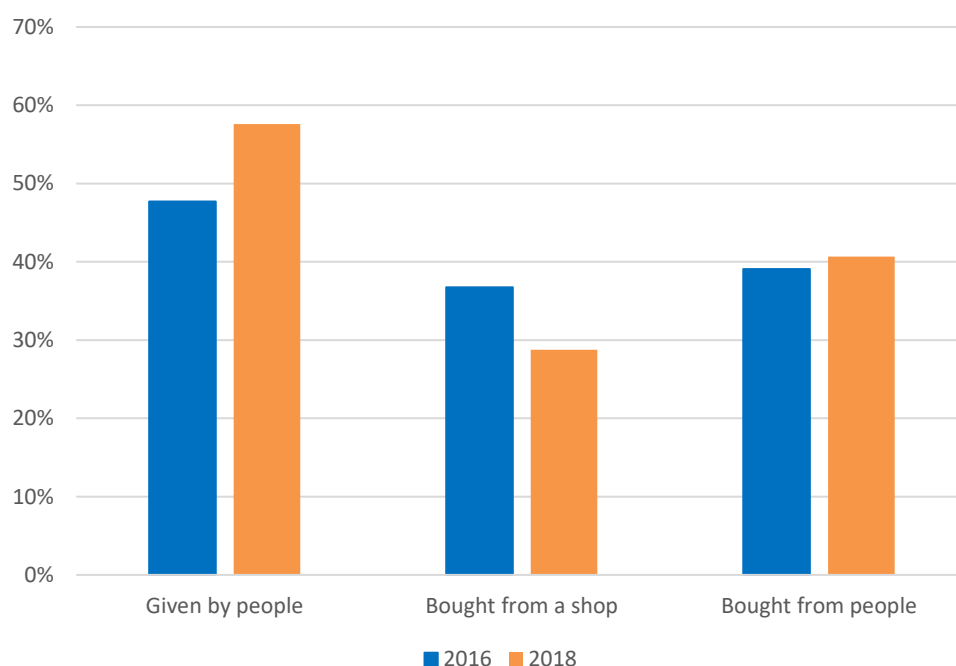


The ONS survey also asks questions on reasons for using e-cigarettes. By far the most common reason for using them was as an aid to stop smoking, and over 50% of users stated using e-cigarettes for this reason in 2018.

Official data is not available showing prevalence for those aged 16-17. However, a survey conducted by YouGov for ASH<sup>47</sup> shows that the proportion of 16- and 17-year olds using e-cigarettes “more than once a week” was 1.8% and 3.5% respectively. This survey reported the method of purchase of e-cigarette. It showed that 62% of e-cigarettes were ‘bought’, compared to 35% that were ‘given’. Of those bought, 44% came from a physical shop, while almost a quarter were purchased over the internet. However, this survey represents a snapshot in time and due to low sample sizes results should be treated with caution.

Method of purchase of NIPs is also covered by the SDD survey. The source of e-cigarettes has been covered since 2016 and as such there is no data available before the regulation was implemented. However, in 2016 the survey found that 37% of regular users bought e-cigarettes from a shop. The percentage fell to 29% in 2018.

*Figure 14: Regular e-cigarette prevalence by method of purchase (Source: Smoking, Drinking and Drug use among Young People in England)*



### **Compliance data**

The fall in the number of young people purchasing NIPs from shops is supported by CTSI Tobacco Control Surveys’ data that shows an increase in compliance since 2015/16. The table below was based on an experiment where young volunteers went into shops and attempted to purchase an e-cigarette or e-cigarette refill, with the number making a successful purchase declining from 36% in 2015/16 to 28% in 2017/18. However, in 2018/19 there was a large decrease in the number of checks and an increase in the percentage who made a purchase to 40%. This compares unfavourably with compliance for other tobacco regulations, for example the display ban where compliance has been over 90% since introduction.

<sup>47</sup> <https://ash.org.uk/wp-content/uploads/2019/06/ASH-Factsheet-Youth-E-cigarette-Use-2019.pdf>

*Table 1: Test purchasing of NIPs - summary of visits and illegal sales to volunteer young persons at premises (Source: CTSI Tobacco Control Surveys)*

	2015/16	2016/17	2017/18	2018/19
Number of visits	877	687	437	227
Number of sales	317	214	121	90
Percentage	<b>36%</b>	<b>31%</b>	<b>28%</b>	<b>40%</b>

In addition, data from the SDD 2018 shows that 40% of current e-cigarette users had asked someone else to buy them e-cigarettes or refills from a shop in the last year and of these users 82% were successful, indicating relatively high levels of proxy purchasing.

The evidence above presents a range of data on e-cigarette use. This is a mixed picture when attempting to determine the impact of this regulation on the objective of preventing use amongst young people. While overall prevalence of e-cigarettes has increased, this can largely be assumed to be extraneous and due to growth associated with the new market for these products. Moreover, the decline in prevalence observed since 2016 indicates that the regulations may have checked further increases in prevalence amongst young people, compared to adult use (Figure 12) where further increases were observed over the same period. The data also confirms the PHE findings on the gateway effect by showing that very few (less than 1%) of “never smokers” take up e-cigarettes. All of the key indicators show that existing smokers will move on to e-cigarettes or substitute tobacco for e-cigarettes in order to quit. Evidence demonstrating the positive impact of the regulations is the decrease in the proportion of e-cigarettes bought from shops. However, the latest compliance data does indicate a possible issue with enforcement.

The data for youth e-cigarette use is only available every two years, more detailed research would be required to confirm this effect as well as further monitoring of this and other indicators.

## **Economic impacts**

### ***Evaluation of costs***

The original IA<sup>48</sup> estimated that the main costs associated with the Age of Sale (NIP) legislation would be negligible and below the £5m annualised costs which are the threshold test for the RPC scrutiny. The total cost (over 10 years) incurred by businesses unable to sell to under-18's was estimated to be £3.4m with a net present value, considering offset spending, of -£2.1m.

DHSC noted above that the regulation may have checked the extraneous growth in e-cigarettes amongst young people. In the absence of this regulation therefore, DHSC can assume that e-cigarette prevalence and therefore sales, would have been higher, indicating some loss of profit to retailers and manufacturers. However, it is likely that this effect has been outweighed by the increase in sales seen for adults.

It is also worth noting that if e-cigarette users are former smokers, the result of this may be a corresponding decrease in tobacco sales. So, depending on profit margins, retailers as a whole may not be any better off.

Even though compliance with the regulation has improved over the last three years, there remains a substantial proportion of young people under 18, who continue to purchase e-cigarettes and associated products from shops, through a variety of means. This includes a

<sup>48</sup> Impact assessment for nicotine inhaling age-of-sale and purchasing 2015 regulations, available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/394793/IA\\_NIP.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/394793/IA_NIP.pdf)



cohort of e-cigarette users who began before 2015 and who would continue to smoke despite the new legislation.

Given the uncertainties around the costs of the regulation, it has not been possible to quantify its effect on businesses, however it is likely that the costs of this regulation remain negligible and potentially lower than the estimates stated in the original impact assessment. This assumption is supported to an extent by the King's Fund interview research.

The interviews conducted, with owners, managers and workers of small newsagents, convenience stores and petrol stations did not report any costs of implementing the age of sale regulation. Similarly, when asked about the impacts, small businesses reported limited or no impact from raising the age of sale:

*"The changes have been very little, really, apart from the age thing but we never sold to anybody under the age of 18 anyway and it was never really an issue [...] So it's not a massive sales outlet for want of a better word but it is increasing, you know."*

A further cost assessed was that to public services for the enforcement of the regulation. This was also estimated to be minor (around £600,000 one-off cost with £80,000 each year after). The £600,000 cost is based on enforcement of regulations via local councils. Based on CTSI reports, this figure is likely to be accurate. Prosecutions resulting in fines following enforcement checks are shown in the table below, confirming the expected negligible impact on the criminal justice system.

*Table 2: Prosecutions that resulted in a fine each year (nothing in first year due to phase in) (Source: CTSI Tobacco Control Surveys)*

Level of fine	2015/16 Fines	2016/17 Fines	2017/18 Fines	Estimated Fines
Total	0	6	5	£8,650

Should the legislation be removed, the costs to business would be limited to minor administrative changes within retail outlets and similarly, for enforcement, cost savings would also be minimal. However, it is likely that sales to under 18s would increase, causing a negation of the health benefits discussed in the next section.

### **Evaluation of benefits**

In terms of the original objectives of the regulation, while the evidence above gives a mixed picture, the data on e-cigarettes, such as the decline in youth prevalence since 2016 compared to the increase in adult prevalence over the same period, indicates that the NIPs legislation will have prevented further growth in e-cigarette prevalence amongst young people.

Therefore, DHSC assume that the main health benefits accrued will be a result of young people (under 18) who are deterred from taking up e-cigarettes, yielding a health improvement by not smoking at all.

In addition to this effect and given that compliance is currently 60%, there will be young people who continue to use e-cigarettes despite the legislation. For young people who use e-cigarettes as a method to quit tobacco smoking, there will therefore be a reduction in harm compared to tobacco smoking<sup>49</sup>.

<sup>49</sup> The original IA discussed a "net gateway effect" defined as the number of young people the policy prevents from using NIPs as a gateway into tobacco smoking compared to those who may use them to quit tobacco smoking. However, [a recent PHE review](#) did not find evidence to support the concern that e-cigarettes are a route into

Although no authorities assert that e-cigarettes are harmless, the evidence is clear that e-cigarettes are likely to represent a significantly reduced health risk compared with use of tobacco products. This is supported by the US National Academy of Sciences, who amongst the conclusions of a wide-ranging review, stated that “*there is conclusive evidence that completely substituting e-cigarettes for combustible tobacco cigarettes with e- reduces users’ exposure to numerous toxicants and carcinogens present in combustible tobacco cigarettes*”<sup>50</sup>.

Overall, it is safe to assume that the health benefits from a lower uptake of e-cigarettes amongst young people will outweigh the negligible costs of NIPs implementation, with scope for further benefits given that non-compliance remains high (relative to other tobacco regulations). Given difficulties in measuring these effects, the overall health benefits have not been quantified.

## Stakeholder consultations

### Summary of Findings

For this consultation the questions were: *whether Nicotine Inhaling Products Regulations have helped prevent the sale of nicotine inhaling products, including e-cigarettes, to under 18s (including a further question on whether the regulation protects young people from harm); whether anyone else benefited from the age restriction and proxy purchasing ban on nicotine inhaling products; and if there were any economic losses or gains associated with carrying out this regulation in the community.*

Summary of the results on the specific questions is presented below.

### Do you think the Nicotine Inhaling Products Regulations have helped prevent the sale of nicotine inhaling products, including e-cigarettes, to under 18s?

The responses to the first part, broken down by the capacity in which they responded, are as follows:

	Evidence Provided				No Evidence Provided			
	#	Yes	No	Don't Know	#	Yes	No	Don't Know
<b>Total</b>	<b>24</b>	<b>92%</b>	<b>8%</b>	<b>0%</b>	<b>356</b>	<b>35%</b>	<b>38%</b>	<b>27%</b>
Individual	4	75%	25%	0%	326	34%	38%	28%
Businesses	0	-	-	-	7	43%	43%	14%
NGO	5	100%	0%	0%	9	44%	33%	22%
Public Sector Body	10	90%	10%	0%	4	25%	50%	25%
Other	5	100%	0%	0%	10	50%	20%	30%

smoking for young people (potentially due to the implementation of the NIPs legislation). Therefore, for this section we have focused on the reductions in harm for young people using e-cigarettes to quit.

<sup>50</sup> US National Academy of Science research, conclusion 18-1:

<https://www.nap.edu/resource/24952/012318ecigaretteConclusionsbyOutcome.pdf>

**Has anyone else benefited from the age restriction and proxy (when an adult buys a product on behalf of a minor) purchasing ban on nicotine inhaling products?**

The responses to the first part, broken down by the capacity in which they responded, are as follows:

	Evidence Provided				No Evidence Provided			
	#	Yes	No	Don't Know	#	Yes	No	Don't Know
<b>Total</b>	<b>15</b>	<b>100%</b>	<b>0%</b>	<b>0%</b>	<b>353</b>	<b>15%</b>	<b>29%</b>	<b>56%</b>
Individual	0	-	-	-	320	15%	29%	56%
Businesses	0	-	-	-	7	0%	14%	86%
NGO	4	100%	0%	0%	9	22%	22%	56%
Public Sector Body	9	100%	0%	0%	5	0%	40%	60%
Other	2	100%	0%	0%	12	17%	33%	50%

**Is the age of sale restriction and ban on proxy purchasing of nicotine inhaling products an effective way to protect children and young people from harms of nicotine-containing products?**

The responses to the first part, broken down by the capacity in which they responded, are as follows:

	Evidence Provided				No Evidence Provided			
	#	Yes	No	Don't Know	#	Yes	No	Don't Know
<b>Total</b>	<b>2</b>	<b>50%</b>	<b>0%</b>	<b>50%</b>	<b>368</b>	<b>42%</b>	<b>36%</b>	<b>22%</b>
Individual	0	-	-	-	322	39%	37%	25%
Businesses	0	-	-	-	6	33%	50%	17%
NGO	1	100%	0%	0%	13	85%	15%	0%
Public Sector Body	1	0%	0%	100%	13	69%	15%	15%
Other	0	-	-	-	14	64%	36%	0%

**Were there any economic losses or gains (for individuals, businesses and wider society) associated with carrying out this regulation in the community/local level?**

The responses to the first part, broken down by the capacity in which they responded, are as follows:

	Evidence Provided				No Evidence Provided			
	#	Yes	No	Don't Know	#	Yes	No	Don't Know
<b>Total</b>	<b>3</b>	<b>0%</b>	<b>100%</b>	<b>0%</b>	<b>346</b>	<b>25%</b>	<b>23%</b>	<b>52%</b>
Individual	0	-	-	-	301	26%	20%	54%
Businesses	0	-	-	-	6	17%	17%	67%
NGO	1	0%	100%	0%	12	17%	67%	17%
Public Sector Body	0	-	-	-	14	21%	57%	21%
Other	2	0%	100%	0%	13	23%	23%	54%

In some questions the majority of respondents, including those who supplied evidence answered 'Do not know'. But there was strong support e.g. on whether "Nicotine Inhaling Products Regulations have helped prevent the sale of nicotine inhaling products, including e-cigarettes, to under 18s?", where more than 90% of those supplying evidence replied "Yes".

However, for the question on whether the regulation protects young people from harm, there were an equal number of those replying “Yes” and “Don’t know”.

More detailed responses suggested that:

- NGOs and public bodies believe the regulations are effective in preventing the sales of NIPs to under 18s, whilst being aware more could be done to enforce them, especially in Wales where experimental use has increased.
- NGOs and public bodies believed the regulations were effective in preventing children from becoming addicted to nicotine. In turn, this would help parents who wouldn’t have to worry about this.
- On economic gains or losses, most respondents did not believe there have been any of any significance, mentioning a potential small loss of sales, and additional training requirements for retail staff.
- The regulations would support retailers by providing them with additional protection.

Most businesses who responded to the consultation reported that they supported the regulations. When asked whether the regulations had helped prevent the sale of NIPs to under 18s, they outlined some of the actions they had been taking:

- Most retailers applied a ‘Challenge 25’ policy in shops. They also used age-gated systems on their website to stop under 18s purchasing NIPs
- They carried out ‘secret shopper’ programs to ‘curb underage sales’
- When asked about economic gains or losses, businesses did not express whether they had seen any due to the regulation
- Despite the steps they were taking themselves to stop underage sales in their shops and on their website, most were concerned about unregulated sales from online sellers undermining the regulation and reducing its effectiveness

Trade bodies and associations representing manufacturers and retailers were also in support of the regulation. In response to whether the regulations had helped prevent the sale of NIPs to under 18s:

- Some said the regulations helped to de-normalise nicotine products, making it easier for young people to reject e-cigarettes as normal.
- They said they had already been voluntarily refusing sales to under 18s before the regulation came into effect.
- When asked about economic gains and losses, they said there had been no impact on the sales of NIPs.
- They did mention that there were costs associated with the regulation such as staff training and enforcement of the regulation, with the latter said to be stretching local authority budgets.

For individuals, most of those answering *Yes* (and providing a reason), said that they saw fewer under 18s using e-cigarettes and that many shops were already refusing to sell to under 18s. For individuals answering *No* (and giving a reason), they said that they still see lots of under 18s using e-cigarettes, that they could still purchase them online or at market stalls. They mentioned proxy purchasing still occurs too.

## **Summary**

A large proportion of consultation responses supported the NIPs legislation. Overall, evidence on the impact of the NIPs age of sale was limited. However, a PHE review into e-cigarettes, supported by official data on e-cigarette prevalence, backs up the conclusion that the legislation has led to a lower uptake of youth e-cigarette use and had therefore achieved its original objective.

# 6. Conclusions and recommendations

## **The Tobacco Advertising and Promotion (Display) (England) Regulations 2010 (incorporating The Tobacco Advertising and Promotion (Specialist Tobacconists) (England) Regulations 2010 and Display of Prices (2010))**

The objectives of the advertising and display ban regulations are to reduce smoking uptake by children and young people and support adult smokers who want to quit, therefore improving overall public health. The regulations also provide exemptions for business to continue to operate the sale of tobacco products as set out in the regulations.

The PIR has covered a range of evidence, including commissioned and peer reviewed research, key health data indicators and public consultation to assess these objectives.

As identified in this report, a range of peer reviewed studies support the assumptions of the original IA by showing a reduction in smoking prevalence, reduction in smoking susceptibility and decreases in brand awareness following the introduction of the point of sale tobacco display ban. A commissioned study from Nottingham University found consistent evidence of reductions in prevalence related to the introduction of the legislation. This is further supported by a range of international evidence detailing the positive effects of point of sale display regulations.

Key data indicators including youth and adult smoking prevalence show a clear decreasing trend alongside an increase in quit attempts since implementation of the ban, this evidence points to a substantial increase in health benefits as a result of this legislation, over and above any costs.

The costs of implementation were found to be in line with those predicted in the IA, with some indication that the burden on small business was alleviated by tobacco companies paying for gantry installation in some cases. Recurring costs were slightly higher than estimated in the IA. Effects on the profits of small businesses was negligible and compliance rates were high. Results of the public consultation, where evidence was provided, support these conclusions.

The objectives remain appropriate, are being met by the regulations, and would be undermined by any relaxation, reducing longer term health benefits. Strengthening the regulations, would result in further costs to business while there would be a level of uncertainty around any additional health benefits.

Overall, considering the range of evidence, the display ban has met the original objectives, contributing to an important reduction in smoking prevalence amongst young people and adults. No unintended consequences were identified in the regulations through this review process and compliance with the regulations is high. In light of this, there is no scope for the objectives to be achieved with a system that imposes less regulation, without removing the exemption that allows tobacco to be sold in shops, causing a detrimental effect on health.

## **The Smoke-free (Private Vehicles) Regulations 2015**

The main objective of the Smoke-free vehicle regulations is to prevent adverse effects of second-hand smoke (SHS) on children in private vehicles. It is accepted that in confined vehicles SHS can be significantly more concentrated and unlike adults, children are unable to exert their choice to leave the vehicle.

An important piece of evidence in assessing the impact of the regulations is a commissioned report which showed a 72% reduction in self-reported exposure to tobacco smoke among children following the implementation of these regulations. Key indicator data, such as self-reported exposure amongst 11-15-year olds also shows a decrease since implementation.

Given the low costs associated with this regulation, it is likely that modest health benefits associated with less children being exposed to SHS, and potential secondary effects including lower smoking prevalence amongst young people, are likely to be realised.

In addition, the consultation responses showed broad support for this regulation. However, there is evidence that formal enforcement of these regulations is very low in practice, with few recorded FPNs. Therefore, it is likely that the existence of the regulation is providing awareness of the risks of SHS and providing a deterrent effect.

Overall, considering the range of evidence, the Smoke-free vehicle regulations have met the original objectives; reducing the number of children regularly exposed to SHS in private vehicles. There are no costs to business of this regulation.

## **The Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations 2015**

The aim of this objective is to limit the availability of nicotine inhaling products (NIPs) to young people and restrict the scope for young people to become addicted to nicotine and prevent any gateway effect into smoking tobacco.

The evidence and data available to assess this regulation is limited. E-cigarette prevalence amongst young people has declined slightly since 2016, indicating that the regulation has served to check any potential growth in e-cigarette use. It is noted that adult prevalence over the same period has continued to increase. A PHE review also shows no evidence of e-cigarette use acting as a gateway into smoking tobacco, which is likely to have been reinforced by this legislation.

Considering the available data, it is likely that the implementation of this regulation has not caused significant costs to business and that the health benefits stated in the original impact assessment will be realised.

Results of the consultation showed less general engagement with this regulation. Overall responses from health-related NGOs, public sector bodies and businesses are generally supportive of the objectives.

Given the available data and evidence, the NIPs regulations are likely to have supported the original objectives by limiting growth in NIPs use. Given the very low burden on businesses these objectives could not be achieved with less regulation so should remain.

### **Conclusion summary**

Overall on all of the regulations, DHSC has received a fit for purpose opinion from the Regulatory Policy Committee (RPC) on each of the Post Implementation Reviews of the regulations.

Given the evidence and findings from these reviews in this report and the RPC's independent opinion, the DHSC has decided that the regulations can remain in force and the Government will be maintaining these regulations as they are.

# 7. Annex 1

## Findings of commissioned studies

**The National Institute for Health Research** has conducted the study “*A comprehensive evaluation of the impact of recent English tobacco policy using secondary data*” for DHSC. The main aim of the study was to develop models to assess the policy impact of key measures aimed at reducing smoking prevalence in England, including the display ban for both large and small shops.

The research used a range of statistical methods, including interrupted time series analysis (ITSA), a powerful statistical method used to analyse time series data which has been known to have been affected by a controlled intervention, in this instance, a change in tobacco legislation.

ITSA starts with the development of a hypothesis of how the policies will impact on the chosen outcomes if they are effective. To develop these hypotheses, logic models are used to identify outcomes anticipated to change in response to the policies (e.g. a change in gradient of the trend or a level shift, and the timing of the change following intervention). These hypotheses are then compared to a counterfactual situation where in the absence of any intervention, pre-existing trends are unaffected.

Model selection followed a pre-specified process through which the explanatory variable structure was established for each policy and dataset. A statistical estimator was then used to select the best-fit model for each data set. Variables were then added to control for differences in age, sex, socio-economic status and seasonality and the model was refined based on durations of policy impact and lags to changes in levels and trends. Finally, the influence of time-varying confounders (mass media spend, e-cigarette use, cigarette tax) were investigated (independently and together) to assess impacts, before selecting the best-fitting model.

For ITSA regular data collection is required for it to be effective. For this study two sources of data; Health Survey for England (HSE) and Smoking Toolkit Study (STS) were used as these sources had quarterly and monthly data across the relevant periods.

The ITSA analysis looked at a several indicators to assess the impact of the point of sale display ban regulations.

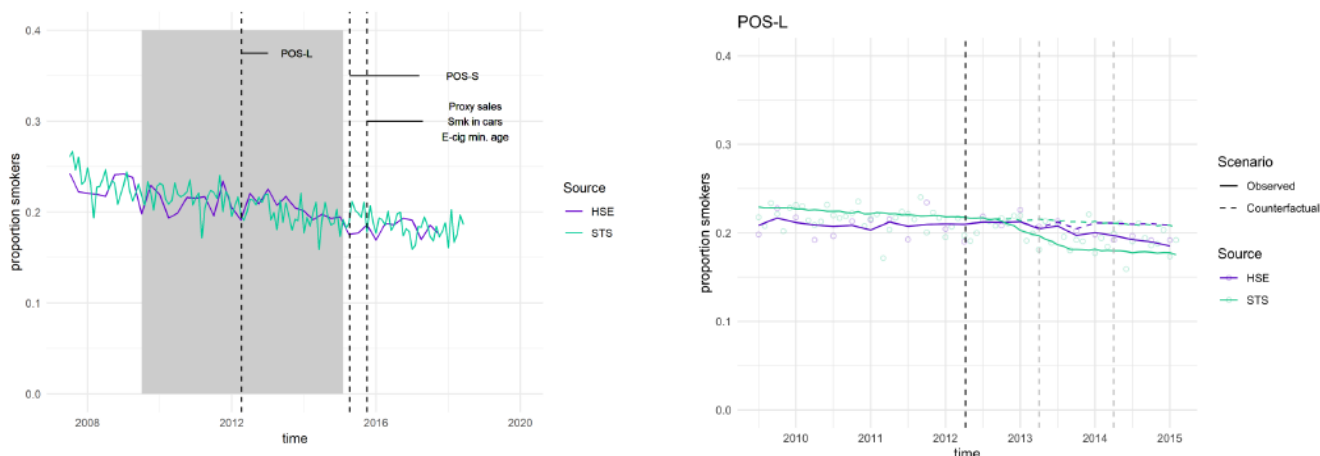
### ***Adult smoking prevalence***

#### ***Display ban in large shops***

As shown in figure A1 below, the time-period considered was three years either side of the policy implementation point.



Figures A1 and A2: Left: Range of data used to investigate the effects of the point of sale display ban in large shops, and Right: The estimated change in prevalence following implementation of the ban on point of sale displays in large shops



Following the application of a best-fit model, figure A2 shows the predicted trends in smoking prevalence since the introduction of the policy (solid lines), with the counterfactual trend we assume would have occurred in the absence of the policy shown with the dotted-lines. Both HSE and STS data sources show the observed trend is below the counter-factual trend from the point of implementation.

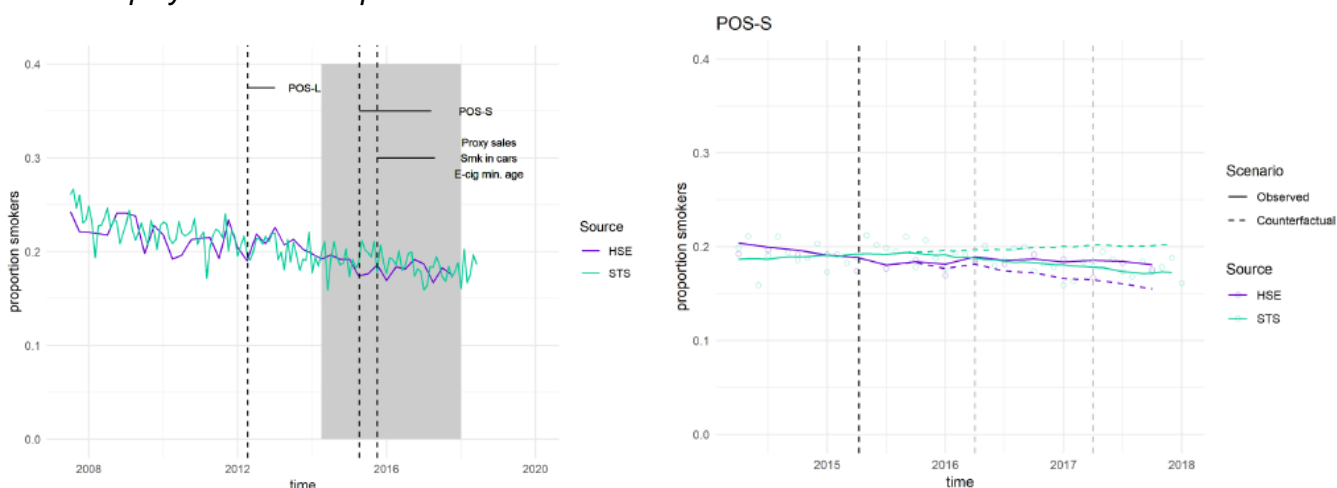
In terms of the effect, both data sources showed a decline in the proportion of smokers:

- From STS data the decline was 0.025 after 1 year and 0.042 after 2 years (equating to 2,500 per 100,000 smokers after 1 year and 4,200 per 100,000 after 2 years).
- From HSE data the decline was 0.001 after 1 year and 0.014 after 2 years (equating to 100 per 100,000 smokers after 1 year and 14,000 per 100,000 after 2 years).

### Display ban in small shops

For the investigation of the display ban on small shops the time-period considered was around a year before implementation and three years after the policy. This is shown in figure A3.

Figure A3 and A4: Left: Range of data used to investigate the effects of the point of sale display ban in small shops, and Right: the estimated change in prevalence following implementation of the ban on point of sale displays in small shops



As with the large shop ban above figure A4 shows the predicted trend in smoking prevalence in both data sources due to the policy (solid lines), with the counter-factual in the absence of the policy (dashed lines). For the STS data, the trend shows the policy decreased the number of smokers, but for HSE data the policy was estimated to have increased the number of smokers.

In summary, the effect was estimated as follows:

- From STS data the decline was 0.009 after 1 year and 0.024 after 2 years (equating to 900 per 100,000 smokers after 1 year and 2,400 per 100,000 after 2 years).
- From the HSE data, the 95% confidence interval for all estimates included zero-effect (no change). This suggests that the increase in prevalence shown is due to chance and that the policy had no detectable effect from this data source.

### **Effect size and sensitivity analysis**

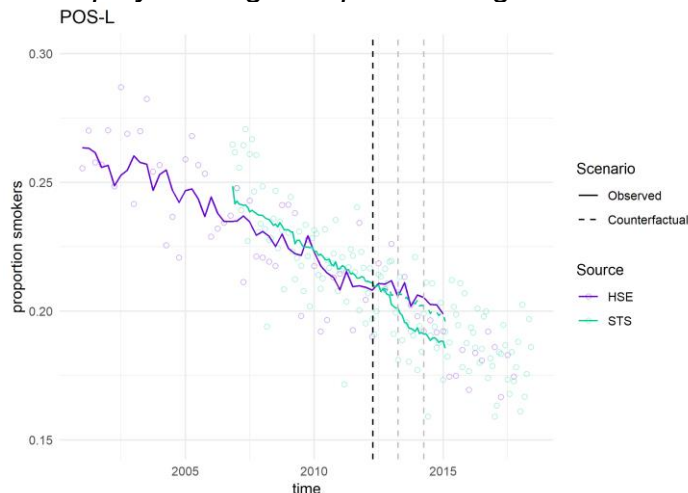
The effect size for the display ban in large shops is very large, particularly for the STS data. This is partly due to the relatively flat trend in smoking prevalence seen in the two years prior to the introduction of the legislation in 2012. Therefore, when the observed series is compared to the counterfactual, the overall effect will be amplified, following a fall in smoking prevalence around the time of the policy.

To illustrate this issue, the research also included sensitivity analysis which included a much longer time series prior to the introduction of the policy. Using the longer time series increases the gradient of the downward slope of the counterfactual trend, reducing the size of the effect between the observed data. The issue here is whether we consider the downward sloping trend from say 2006 (or 2002) to be an ongoing process that would continue if no policies were in place. For example, the trend could be viewed as culturally driven, with specific policies adding to the rate of decline, or the downward trend could be viewed as entirely policy driven and if policies stopped the series would be flat.

In terms of the results, using the longer time series therefore shows more moderate effects from the time of introduction of the display ban in large shops:

- From STS data the decline was 0.006 after 1 year and 0.011 after 2 years (equating to 600 per 100,000 smokers after 1 year and 1,100 per 100,000 after 2 years).

*Figure A5: Alternative version of the estimated change in prevalence following implementation of the ban on point of sale displays in large shops with longer time series*



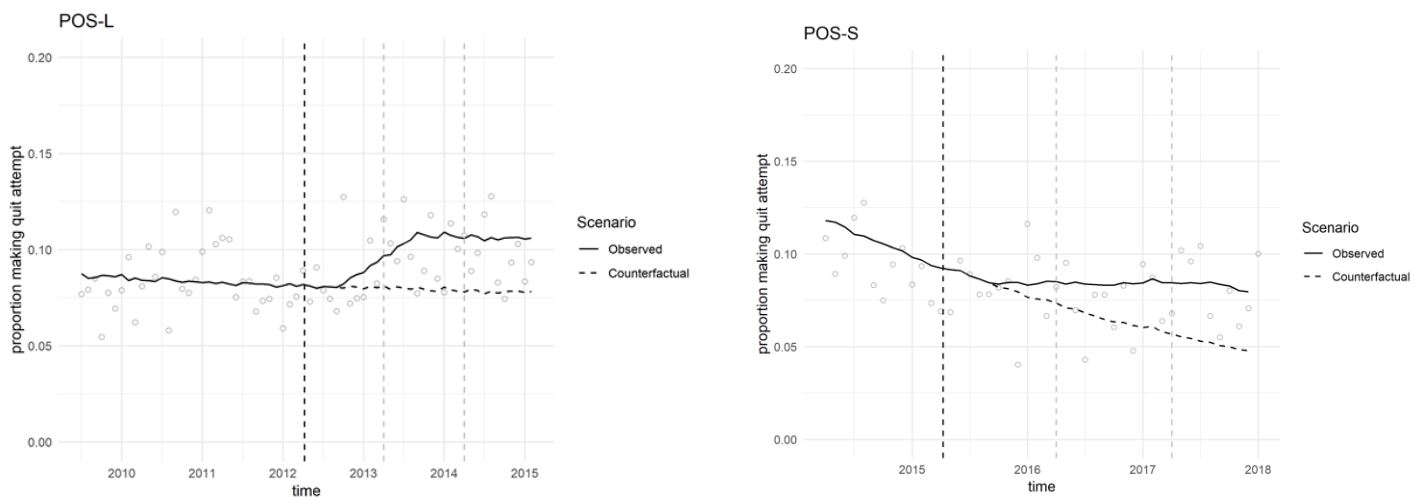
A further factor is that the model was unable to fully separate out the effects of other potentially confounding factors such as e-cigarette use, which saw some sharp increases around the same time. A range of other factors such as mass media campaign spending and tobacco prices may also have had an effect.

## Quit attempts and quit success

For large shops, after a lag of 6 months there was an increase in the proportion of smokers attempting to quit. After one year, this was an increase of 1.6 percentage points, and after two and three years an increase of 2.8 percentage points. This equates to approximately 540,000 extra smokers attempting to quit over the three years post implementation. Figure A6 shows the observed trend of quit attempts against the expected.

In small shops, a lagged effect was also observed. 6 months post-implementation, the proportion of smokers attempting to quit remained stable rather than continuing to decline as predicted. After one year, this was an increase of 1.1 percentage points, and after two years an increase of 2.7 percentage points. This equates to approximately 290,000 extra smokers attempting to quit. Figure A7 shows the observed trend of quit attempts against the counterfactual.

*Figure A6 and A7: Left: The estimated change in the proportion of current smokers who made a quit attempt in the last two months following implementation of the ban on point of sale displays in large shops (with no time varying confounders), Right: The estimated change in the proportion of current smokers who made a quit attempt in the last two months following implementation of the ban on point of sale displays in small shops*



The effect on the proportion of quit attempts that ended in a successful quit was not statistically significant for either the display ban in large shops or small shops. One reason for this may be that the STS data includes those who did not use any support mechanism (e.g. NHS Stop Smoking Service) when attempting to quit.

## Cigarette Consumption

The effect of the display regulations of the average amount of cigarettes smoked was also not statistically significant. This was the case for both the display ban in large and small shops.

## Summary

As has been mentioned in this report, evidence of the effects of individual interventions on smoking behaviour are difficult to detect and quantify. It should be noted that the effects of the point of sale tobacco display ban on large shops could not clearly be separated out from the increase in use of e-cigarettes around this time. However, the evidence presented supports the importance of measures which reduce the visibility and appeal of tobacco products and therefore contribute to decreasing smoking prevalence.

## 8. Annex 2

**Department of Health and Social Care approved summary PIR report templates with the RPC opinion**

<b>Title:</b> Tobacco Advertising and Promotion (Display Regulations) <b>PIR No:</b> RPC-4476 (1) <b>Original IA/RPC No:</b> 3076 <b>Lead department or agency:</b> <b>Department of Health and Social Care</b> <b>Other departments or agencies:</b> n/a Contact for enquiries: healthybehaviours@dhsc.gov.uk	<b>Post Implementation Review</b>
	<b>Date:</b> 19/11/2020
	<b>Type of regulation:</b> Domestic
	<b>Type of review:</b> Statutory
	<b>Date measure came into force:</b> 06/04/2015
	<b>Recommendation:</b> Keep
	<b>RPC Opinion:</b> Green

### 1. What were the policy objectives of the measure?

With the RPC permission this report combines a review of three regulations namely: (i) Tobacco Advertising and Promotion (Display) (England) Regulations 2010; (ii) Tobacco Advertising and Promotion (Specialist Tobacconists) (England) Regulations 2010 and (iii) Tobacco Advertising and Promotion (Display of Prices) (England) Regulations 2010.

The policy objective of the three regulations was to protect children, young people and adults from the health harms of smoking.

### 2. What evidence has informed the PIR?

A comprehensive suite of quantitative and qualitative evidence:

- Key indicator data, including youth and adult smoking prevalence, stop smoking services, e-cigarette use
- Independently commissioned research from the UK Centre for Tobacco and Alcohol Studies, which is a consortium of 13 universities.
- Peer reviewed papers published in scientific journals on the impact of display bans
- Consultations covering the legislation and a series of independently conducted interviews for small businesses.

### 3. To what extent have the policy objectives been achieved?

The impact of these regulations cannot be perfectly isolated from the effects of other Government regulations and interventions. But evidence in 2 above indicates that they are effective in meeting their policy objective. This is backed empirical data which suggest that, since 2012:

- The level of smoking among 11-15-year olds has declined from 8% to 5% and from 19% to 14%, quitting success rates have increased from 50% to 62% and compliance with these regulations is high up to 95% in 2018

Sign-off for Post Implementation Review:

***I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.***

Signed: Chris Mullin, Chief Economist and Jo Churchill MP, Parliamentary Under Secretary of State

Date: 08/12/2020

#### **4. What were the original assumptions?**

Assumptions for the three regulations were combined. They were expected to deliver:

- 6,000 young people not starting to smoke and 14,350 adult smokers quitting, per annual cohort;
- £1.6bn of discounted health benefits (27,000 QALYs);
- £28m one-off and £42m annual recurring costs to the trade, £5m annual cost to consumers;
- £117m annual reduction in tobacco duty revenue.

#### **5. Were there any unintended consequences?**

Prior to coming into force, the regulations were amended to ensure they reflected the practicalities of the retail environment, allowing sufficient time for retailers to adapt and keeping compliance costs to a minimum. This removed potential difficulties.

Evidence from the consultation and further investigations found no unintended consequences with only minor issues associated with serving time and restocking. Compliance with these regulations is high (see box 3) and was high for small retailers within a year of implementation.

#### **6. Has the evidence identified any opportunities for reducing the burden on business?**

The main burden on businesses were the one-off installation costs for display cabinets. This is crucial for the regulation to work, and many businesses have already incurred this, therefore no scope to reduce this burden.

We found that ongoing costs associated with the extra time taken to serve customers and re-stock cabinets were slightly higher than IA estimates, but within acceptable limits. A handful of consultation responses raised options to relax or strengthen the regulations, however the body of evidence suggests that retailers have accepted the display ban and there was no evidence that the burden could be reduced, without further increasing costs or negating the health benefits that have resulted from the implementation of the ban.

#### **7. For EU measures, how does the UK's implementation compare with that in other EU member states in terms of costs to business?**

Not applicable.

<b>Title:</b> The Smoke-free (Private Vehicles) Regulations 2015 <b>PIR No:</b> RPC-DHSC-4478(1) <b>Original IA/RPC No:</b> 3073 <b>Lead department or agency:</b> <b>Department of Health and Social Care</b> <b>Other departments or agencies:</b> n/a Contact for enquiries: healthybehaviours@dhsc.gov.uk	<b>Post Implementation Review</b>
	<b>Date:</b> 10/07/2020
	<b>Type of regulation:</b> Domestic
	<b>Type of review:</b> Statutory
	<b>Date measure came into force:</b> 06/04/2015
	<b>Recommendation:</b> Keep
	<b>RPC Opinion:</b> Green

### 1. What were the policy objectives of the measure?

The objective was to prevent smoking in private vehicles carrying children, to protect them from the harms of second-hand tobacco smoke, thereby reducing illness and related burdens on the NHS in the longer term.

### 2. What evidence has informed the PIR?

- Second-hand Smoke (SHS) exposure rates in children under 18, from the Smoking, Drinking and Drugs use among Young people survey.
- Commissioned research from Chartered Institute of Environmental Health and Improving Performance in Practice on compliance rates, and from NIHR on the impact of banning smoking in cars with children on exposure to SHS; public consultation on the regulation.

### 3. To what extent have the policy objectives been achieved?

Since this regulation was introduced the proportion of children aged 11-15 years old being exposed to SHS in a family's or someone else's car dropped from 34% in 2014, to 23% in 2018.

Compliance with the regulations has been high, with one study showing full compliance with the regulations. Public support for the regulation is also very high, even amongst smokers.

It is too early to observe improvements in the long-term health outcomes due to 5-year window.

Sign-off for Post Implementation Review:

***I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.***

Signed: Chris Mullin, Chief Economist and Jo Churchill MP, Parliamentary Under Secretary of State

Date: 08/12/2020

**4. What were the original assumptions?**

- Among others, a reduction in the estimated 5%-10% of second-hand smoking-related health conditions in children which are caused by exposure in private vehicles;
- Reduced demand for smoking-related treatment, releasing NHS resources worth 540 QALYs (£32.6m);
- Enforcement costs of £768,000 per year (offset by offender fines)

**5. Were there any unintended consequences?**

There has been no unintended consequence as a result of this regulation. We observed that enforcement officials find it hard to apprehend the offenders in moving vehicles.

We hypothesised that reduced enforcement could lead to lower compliance rates, but evidence suggests successful compliance, including one study reporting full compliance. The regulation has therefore been a successful deterrent.

**6. Has the evidence identified any opportunities for reducing the burden on business?**

No. These regulations are not linked to any burden on business.

**7. For EU measures, how does the UK's implementation compare with that in other EU member states in terms of costs to business?**

Not applicable.



<b>Title:</b> Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations 2015 <b>PIR No:</b> RPC-DHSC-4477(1) <b>Original IA/RPC No:</b> 3132 <b>Lead department or agency:</b> <b>Department of Health and Social Care</b> <b>Other departments or agencies:</b> n/a Contact for enquiries: healthybehaviours@dhsc.gov.uk	<b>Post Implementation Review</b>
	<b>Date:</b> 10/07/2020
	<b>Type of regulation:</b> Domestic
	<b>Type of review:</b> Statutory
	<b>Date measure came into force:</b> 01/10/2015
	<b>Recommendation:</b> Keep
	<b>RPC Opinion:</b> Green

<p><b>1. What were the policy objectives of the measure?</b></p> <p>The objective was to:</p> <ul style="list-style-type: none"> <li>(i) limit the sale of nicotine inhaling products (NIPs) to adults only, with only certain limited exceptions for medicinal products</li> <li>(ii) limit the availability of NIPs to under 18's, restricting the scope for young people to become addicted to nicotine, minimising potential gateway effect into smoking.</li> </ul>
<p><b>2. What evidence has informed the PIR?</b></p> <ul style="list-style-type: none"> <li>• The Smoking, Drinking, and Drug use among young people survey;</li> <li>• A public consultation on the regulation and independent research by The King's Fund through interviews with businesses;</li> <li>• Commissioned Tobacco Control Surveys conducted by the Chartered Trading Standards Institute on compliance rates.</li> </ul>
<p><b>3. To what extent have the policy objectives been achieved?</b></p> <ul style="list-style-type: none"> <li>• The evidence does not support the concern that e-cigarettes are a route into smoking among young people. Regular e-cigarette use in young people is confined to those already smoking tobacco, with only 0.6% increase in use over four years between 2014 and 2018 (from 1.4% to 2%). PHE recommends smokers should try using e-cigarettes to quit.</li> <li>• The regulation has restricted the availability of NIPs with compliance at 60%.</li> </ul>

Sign-off for Post Implementation Review:

***I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.***

Signed: Chris Mullin, Chief Economist and Jo Churchill MP, Parliamentary Under Secretary of State

Date: 08/12/2020

#### **4. What were the original assumptions?**

Compared with no change, the policy was expected to deliver:

- Offsetting benefits of £170k per year from redirected spending on other goods; and
- health gains from preventing children becoming tobacco smokers, of 1 QALY per child.
- The Impact Assessment estimated that preventing 4 children a year from taking up tobacco smoking would be sufficient to generate a positive net present value for the policy.

#### **5. Were there any unintended consequences?**

There have been no unintended consequences of the regulation. Evidence suggests that restricting sale of nicotine inhaling products to those aged 18 is having positive outcomes.

#### **6. Has the evidence identified any opportunities for reducing the burden on business?**

The burden on business for this regulation was low, with minor costs and inconvenience anticipated. The consultation and other available evidence show that businesses are broadly supportive of the regulation and have not reported any significant burdens. All vendors interviewed in a targeted study reported they were complying with the regulation.

#### **7. For EU measures, how does the UK's implementation compare with that in other EU member states in terms of costs to business?**

Not applicable.

# 9. Abbreviations

ACS – Association of Convenience Stores

ASH – Action on Smoking and Health Charity Organisation

CO – Carbon Monoxide

CPS – Crown Prosecution Service

CTSI – Chartered Trading Standards Institute

FPN – Fixed Penalty Notice

HMCTS – Her Majesty's Courts and Tribunal Service

HSE – Health and Safety Executive

IA – Impact Assessment

ITSA – Interrupted Time Series Analysis

LTCP – Local Tobacco Control Profiles

NGO – Non-Governmental Organisation

NIHR – National Institute for Health Research

NIP – Nicotine Inhaling Product

OECD – The Organisation for Economic Co-operation and Development

ONS – Office of National Statistics

OTP – Other Tobacco Products

PHE – Public Health England

PIR – Post Implementation Review

QALY – Quality Adjusted Life Years

RPC – Regulatory Policy Committee

SBEEA – Small Business, Enterprise and Employment Act 2015

SDD – Smoking, Drinking and Drug use among Young People in England Survey

SHS – Second-hand Smoke

SSS – Stop Smoking Services

STS – Smoking Toolkit Study

TAPA – Tobacco Advertising and Promotion Act 2002

UCL – University College London

WHO – World Health Organisation

