

Smoke-free, vape-free and heated tobacco-free places

Lead department	Department of Health and Social Care
Summary of proposal	This proposal is to extend the current smoke-free places policy and introduce vape-free and heated tobacco-free places, in order to improve health outcomes.
Submission type	Options Assessment – 15 th October 2025
Legislation type	Secondary legislation
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RPC opinion

Rating	RPC opinion
Fit for purpose	<p>The OA outlines the problem under consideration, focused on the need to reduce second-hand emissions in order to improve health outcomes. The assessment considers various measures at the long-list stage, progressing multiple options to the shortlist. The assessment considers alternatives to regulation. The SaMBA provided is sufficient. The OA sufficiently justifies its preferred approach, using a qualitative assessment based on how each option performs against the policy objectives. The scorecard provides a satisfactory summary of expected impacts, focussed on the business impacts. The OA includes a good plan for monitoring and evaluation, with a clear review timeline, evaluation questions and potential data sources.</p>

RPC summary

Category	Quality	RPC comments
Rationale	Green	The assessment outlines the problem under consideration and the argument for intervention, which is focused on the need to reduce the occurrence of second-hand emissions in order to improve health outcomes.
Identification of options (including SaMBA)	Green	The assessment considers various measures at the long-list stage, progressing multiple options for smoke-, vape- and heated tobacco-free places to the shortlist. The assessment considers alternatives to regulation, justifying why they have not been carried forward. The SaMBA provided is sufficient.
Justification for preferred way forward	Green	The OA sufficiently justifies its preferred approach to extend smoke-free places and introduce vape- and heated tobacco-free places, using a qualitative assessment based on how each option performs against the policy objectives.
Regulatory Scorecard	Satisfactory	The scorecard provides a satisfactory summary of expected impacts, focussing on the business impacts. The assessment could be improved by monetising some of the potential health benefits of the proposal or explaining how this uncertainty will be reflected in final decisions.
Monitoring and evaluation	Good	The assessment includes a good plan for monitoring and evaluation, with a clear review timeline, evaluation questions and potential data sources, as well as considering the possible unintended consequences.

Summary of proposal

The Department for Health and Social Care (DHSC) is responsible for the regulation of places where tobacco, vaping and heated tobacco products can be used, with smoking currently prohibited in the majority of enclosed or substantially enclosed public places and workplaces. There is not currently any legislation prohibiting the use of heated tobacco or vapes in any locations. Second-hand smoking poses a risk to health, even outdoors, and there is some evidence suggesting that second-hand vaping and inhalation of heated tobacco could be harmful to health.

This OA proposes to extend the current smoke-free places policy and introduce vape-free and heated tobacco-free places, in order to improve health outcomes.

There are four shortlisted options proposed in this assessment:

- **Option 1: Business as Usual**
- **Option 2: Do minimum** – Extend smoke-free places to public playgrounds, outside primary and secondary schools and hospitals. Extend vape-free places to existing smoke-free places.
- **Option 3: Preferred** - Extend smoke-free places to public playgrounds, outside education settings and some health and care settings. Extend vape-free restrictions to existing smoke-free places and public children's playgrounds and outside education settings.
- **Option 4: Do maximum** - Extend smoke-free places to public and private playgrounds, outside education settings and all health and care settings. Align vape-free with smoke-free places, to include children's and health settings.

Option 3 has been preferred by the Department at this stage. However, the Department states that this is subject to an upcoming consultation.

Rationale

Problem under consideration

The key issue considered by the Department is the prevalence of passive smoking, where non-smokers are exposed to second-hand smoke and other emissions, potentially leading to harm through no choice of their own. Second-hand smoking can lead to various long-term health risks, including lung cancer and heart disease. The Department has also highlighted that there is a notable second-hand smoke presence around children and medically vulnerable people. The OA discusses the potential harms from exposure to second-hand emissions from heated tobacco and vapes.

The OA does well to use a range of evidence to support this problem statement, using research, survey data and evidence from other jurisdictions to show the negative health impacts of second-hand smoking, and give an indication of the prevalence of second-hand smoke in different types of areas. The OA would be

improved by considering the impact of previous interventions on second-hand smoking in more detail, considering why the issue remains prevalent in light of these interventions. The Department should seek to use the upcoming consultation to strengthen the evidential case for health risks associated with vaping for the final IA, particularly where causal links are less certain, and/or to reflect the degree of uncertainty in their assessment of options.

Argument for intervention

The Department argues it is necessary for the government to intervene as voluntary action has not proven sufficient to reduce second-hand smoke, as well as second-hand emissions from heated tobacco and second-hand vapours from vaping. In particular, a lack of formal penalties available has resulted in difficulties in ensuring compliance. As such, there is little incentive for smokers to limit the usage in public places that are not restricted, leading to negative health consequences for the majority who do not smoke, particularly for children and medically vulnerable people. The OA supports this argument using research to suggest that previous restrictions on display have reduced smoking numbers and improved health outcomes. The OA would benefit from considering why these current interventions are insufficient, given the claim that they are delivering on their intended outcomes.

The assessment should be improved by expanding upon its rationale for intervention, including by identifying a market failure to support this argument, such as by discussing the negative externalities associated with second-hand smoke.

Objectives and theory of change

The assessment has set out three overall policy objectives, including to reduce children and medically vulnerable people's exposure to second hand smoke, reduce the public's exposure to second hand vaping and reduce the prevalence of smoking and vaping. The assessment then links these objectives to a set of strategic wider government priorities. The objectives would be improved by specifically linking each objective to the SMART framework, showing how they are specific, measurable, achievable, realistic and time-limited. Whilst the framework is mentioned, it has not been fully utilised to show how each objective meets these criteria. The Department has also set out high-level theory of change models for smoke-free, vape-free and heated tobacco-free places to demonstrate how the proposed intervention will achieve the policy objectives.

Identification of options (inc. SaMBA)

Identification of the 'long-list' of options

The assessment considers a wide range of potential interventions to form its long-list. This has been split into separate sets of options for smoke-free, vape-free and heated tobacco-free places. Within these three areas, the Department considers a range of sub-options for a variety of different elements of a potential intervention, including locations in scope, exemptions, products in scope and delivery approach.

These interventions have each been briefly summarised qualitatively, however the assessment could be improved by providing more detail on each of the long-listed options that were not advanced to the shortlist. The OA also should have presented the long-listed options more clearly, using a table or list for example.

The assessment could also be improved by including more detail on the process behind developing the long-list of options, such as how research and other evidence have been used to form these policies. This would also have benefitted from using the Green Book's Strategic Options Framework Filter (SOFF), which could help present the long-list in greater detail whilst retaining a clear and concise structure. The long-list of options has been assessed in stages, describing why options have not been advanced to the short-list in turn through each of the sub-levels.

Consideration of alternatives to regulation

The OA has considered the possibility of non-regulatory changes as an alternative to regulation in its long-list, included in the 'how to deliver change' sub-section. The Department considers the possibility of strengthening its voluntary scheme, or issuing further guidance, however neither of these options have been advanced to the shortlist.

The assessment provides a sufficient justification for discounting these options at the long-list stage and therefore pursuing regulatory change, arguing previously issued guidance has not led to sufficiently widespread adoption. For example, despite NICE guidance issued in 2015, only 69% of NHS acute trusts had implemented the recommendation to become entirely smoke free by 2019. The OA does suggest the Department will issue new guidance to accompany the new regulations. The OA would be improved by considering the impact of voluntary schemes and guidance on vapes and heated tobacco, with the focus of previous interventions being mostly on smoke-free places.

Justification for the short-listed options

The assessment has progressed three sub-options for locations in scope each for 'vape-free' and 'Smoke-free and heated tobacco-free' places to the shortlist and discounted most of the other proposed sub-options covering exemptions, products in scope, business size and approach to delivery. Smoke-free and heated tobacco-free places have been considered jointly in the shortlist. This has resulted in three headline options (aside from a 'business as usual' option) progressing to the shortlist, packaged together as a 'do minimum', 'preferred option' and 'do maximum'. Each option respectively expands the locations in scope of a ban on tobacco, vaping and heated tobacco products. The OA helpfully sets out these locations for each option in Table 1.

The Department has used its policy objectives to assess the long-listed options, providing a qualitative discussion for each of the potential interventions and how they perform against these objectives. This has been used to demonstrate how rejected long-listed options fail to meet the policy objectives, with a description of why these options are an inadequate fit. The OA should be improved by providing a clearer assessment of the options against the policy objectives, such as by using a table

with RAG ratings for each objective. The assessment could be improved by providing greater detail on why discounted options are not suitable e.g. further discussion of potential risks or explanation as to why an option may not be feasible.

SaMBA and medium-sized business (MSB) assessment

The OA includes a good SaMBA. The Department describes how there will be a considerable range of affected business, including workplaces, retailers, GPs and care providers, childminders and wholesalers. The Department argues it would not be possible to achieve the policy objectives with small and micro businesses exempted, as without universal coverage people who visited or worked at large businesses would be provided with health protections not offered to those in smaller businesses. This justification is sufficient. The assessment could be improved by considering how many affected businesses are micro-sized.

The OA discusses the potential impacts on small and micro caused by the proposal, providing quantified estimate for familiarisation costs and signage costs. The Department also considers the potential profit loss faced by small businesses. The Department also anticipates a disproportionate familiarisation cost for smaller businesses relative to larger businesses that will be more equipped to deal with the change in regulations.

The Department has briefly considered potential mitigations for businesses when dealing with the impact of new regulations. This includes deciding to exempt specialist tobacconists, which are likely to be small and micro businesses. The OA also discusses aiding with new signage, providing pdf templates to help reduce costs. The Department plans to use its consultation to identify further mitigation opportunities.

The OA also considers the potential impact on medium sized businesses, which may face a similarly disproportionate familiarisation cost relative to large businesses.

Justification for preferred way forward

Appraisal of the shortlisted options

The assessment includes a relatively brief qualitative discussion of the shortlisted options. This considers Options 1, 2, 3 and 4 separately, with the shortlist appraisal focussed on how each option performs against the policy objectives. An NPV calculation has also been provided, for the Options 2, 3 and 4 packages, assessed against Option 1, the baseline scenario. As a result of this appraisal, the Department has selected Option 3 as the preferred option, subject to an upcoming consultation.

The assessment discusses how extending smoke-free places to public playgrounds, outside education settings and health and care settings will ensure that children and medically vulnerable people are protected from exposure to second-hand smoke in the settings where they are most likely to be present in. The OA argues this is preferable to Option 2 as it does more to target places where children and medically

vulnerable people are likely to be present in high numbers, such as GPs or nurseries. The Department prefers Option 3 over Option 4 due to the potential detrimental impact to smokers who use vapes as a smoke cessation tool, and to keep with commitments not to extend the ban to private outdoor hospitality. The OA should do more to consider the relative non-monetised impacts of each of the shortlisted options, rather than considering policies largely in isolation, especially between Options 3 and 4.

The assessment of options includes a monetised analysis of the shortlisted options against the baseline scenario. The estimated Net Present Value (NPV) is -£504m for Option 2, -£531m for Option 3 and -£542m for Option 4 (2024 price year, 2027 present value (pv) base year), based on familiarisation costs and profit loss for businesses, and communication campaign enforcement costs for authorities. These figures do not include the potential health and environmental benefits of the scheme. The Department should do more to justify not monetising these impacts. Whilst, the Department does explain it expects the benefits of Option 3 to outweigh those of Option 2, the OA should do more to justify the selection of Option 3 as preferred despite not having the highest NPV.

The level of analysis conducted by the Department is sufficient at this stage. The assessment usefully includes a clear definition of the baseline and the analytical assumptions, as set out in Annex A of the OA. The assessment would benefit from highlighting the varying non-monetised impacts in more detail to demonstrate the differences between the shortlisted options. The OA has done well to test key assumptions with a sensitivity analysis, which considers signage costs and voluntary bans.

Selection of the preferred option

Overall, the qualitative discussion of the proposed options and monetised analysis used to justify the preferred approach is sufficient at this stage. The discussion reasonably sets out how the proposed intervention in areas where children and medically vulnerable people are likely to be present in high numbers. The non-monetised impacts should be highlighted more clearly in the appraisal of shortlisted options.

Regulatory Scorecard

Part A

The scorecard has been used to set out how it considers the policy will have an uncertain impact on total welfare, with familiarisation and signage costs for businesses being balanced out by the health benefits from a reduction in smoking, vaping and heated tobacco use. As before, some of these costs have been monetised, with an NPV of -£531m (2024 price year, 2027 pv base year), based on familiarisation, signage, communication campaign and enforcement costs. In addition to health benefits, the Department expects these costs will be offset by

reduced health and social care costs, reduced fire risk and a reduction in litter. The OA could have highlighted the breakeven analysis in the scorecard to give an indication of the likely impact on overall welfare.

The Department estimates the Equivalent Annual Net Direct Cost to Business (EANDCB) as £61m (2024 prices, 2027 pv base). This is based on the familiarisation costs and signage costs. The Department has not produced a monetised estimate of the impact on households, with the policy expected to have an uncertain effect. This is driven by the potential health benefits being countered by the costs to smokers who may have used vaping products as a smoking cessation aid. The Department should do more to justify treating the overall household impact as uncertain, given the scale of health benefits should be outweighing the risk to vaping products as a smoke cessation aid for the intervention to be justifiable. The Department considers the distributional effects of the scheme, arguing that as likelihood to smoke is higher in less advantaged social grades, they are more likely to experience a health benefit. The OA does well to consider the potential limitations to any health gains caused by displacing activity into private homes or causing a switch to other harmful products.

Part B

The assessment briefly considers the potential impact on the business environment for the proposed intervention, covering the issue that the ban affecting some businesses and not others could lead to a disproportionate burden for these businesses. The Department should consider in more detail the possibility that a reduction in smoking will reduce attractiveness of the tobacco sector. The OA claims no expected impact on market concentration or competition, however if the policy is likely to impose disproportionate costs on smaller business, then it is possible this could lead to a stronger market position for larger affected firms.

The Department does not anticipate any international impacts, however would benefit from considering that reduced tobacco consumption may result in a decrease in imports. The Department usefully considers the impact on natural capital and decarbonisation, summarising how the proposed policy would reduce greenhouse gas emissions and reduce the environmental impact associated with the production of tobacco products.

Monitoring and evaluation

The assessment includes a good plan for monitoring and evaluation. The Department has outlined how it plans on conducting a Post Implementation Review (PIR) 5 years after the legislation comes into effect, which is expected to be 2027, leading to a 2032 review. The OA sets a potential evaluation methodology, including a range of evaluation questions which could be used to assess if the policy has met the Department's objectives. The plan also includes a detailed range of potential

data sources, a list of unintended consequences and external factors that could be considered.

Regulatory Policy Committee

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