

Will you permit or prohibit e-cigarette use on your premises?

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Five questions to ask before you decide

This briefing has been produced by ASH and CIEH following approaches by organisations considering permitting or prohibiting the use of electronic cigarettes by their staff, clients or customers, or generally on their premises. The public health community is still debating the pros and cons of these new products and the advice of policy makers is limited by the available evidence. This briefing has been written to assist you in reaching your own decision. The information we are providing is consistent with that published by the Medicines and Healthcare products Regulatory Agency (MHRA) in respect of nicotine containing products (NCPs), public health guidance on smoking cessation and tobacco harm reduction issued by the National Institute for Health and Care Excellence (NICE) and the requirements of the smokefree legislation as advised by the Chartered Institute of Environmental Health (CIEH).^{1,2,3}

The term “electronic cigarette” is a generic term and not very helpful since, despite their name, “electronic cigarettes” are totally different from cigarettes. Many, but not all, are in the form of thin white tubes that look like cigarettes. Some electronic cigarettes contain nicotine, some do not. Some produce a white odourless vapour, others produce no vapour at all. They do not burn tobacco and do not create smoke (products of combustion). In this briefing we will refer to them as Nicotine Containing Products (NCPs).⁴

Recommended approach

In order to establish a sensible and justifiable policy, we are advising that you first consider the following five questions:

1. What are the issues you trying to deal with?
2. What do you think you need to control?
3. Do you have concerns about the possibility of harm from NCPs?
4. Will restricting or prohibiting use of Nicotine Containing Products support compliance with smokefree policies?
5. Do you want your policy to help to improve people’s health?

1. What are the issues you are trying to deal with?

Three main issues of concern have been raised by public health professionals.

- **Maintaining compliance with smokefree legislation** Throughout the UK smoking is prohibited by law in virtually all enclosed workplaces and public places, on public transport and in vehicles used for work. This is because of the conclusive scientific evidence of the harm that can be caused not only to the smokers themselves, but also to people other than the smoker through the inhalation of so-called ‘secondhand smoke’. However, the smokefree legislation is only concerned with smoking tobacco and other ‘lit’ materials, that is to say, when combustion or burning is taking place. For this reason, it is not an offence

to have an unlit cigarette in your hand or your mouth, and neither is it an offence to use an NCP. These issues are explored more fully below.⁵

- **Promoting good role models to children** The smokefree policies described above are frequently being extended for the protection of children. The main reason for restricting or prohibiting smoking in outdoor areas used by children - for example in play parks, school grounds and beaches - is that the less smoking appears as “normal behaviour” to a child, the less likely they are to start to smoke. The evidence of the effect of role models in smoking is strong and children who live in households where more than three people smoke are 8 times more likely to smoke themselves. There is no comparable evidence on NCPs. These issues are dealt with in more detail below.^{6,7,8}
- **Projecting a clean and ‘healthy’ image for your premises** A further and important use of the voluntary adoption of smokefree policies in areas not covered by the legislation is to establish and maintain the clean and ‘healthy’ image of premises, especially our hospitals, clinics and other treatment and care centres where it can be expected that there will be serious intentions to discourage smoking and maintain a clean and healthy environment. Any employer might deal with the use of NCPs by staff in the same way as they might permit or prohibit eating or drinking on duty. Many business premises have problems with smokers congregating around entrances so that visitors have to pass through smoky areas when arriving and departing.^{9,10}

2. What do you think you need to control?

The products you might want to permit or prohibit should depend on the issues you are trying to deal with.

- **Lookalikes?** Should your policy cover only products that resemble cigarettes and therefore could be confused with them? There is no doubt that many NCPs are intended to resemble cigarettes – some even have a torch-light in the end intended to simulate the glowing tip of a lit cigarette.
- **Nicotine?** Should your policy cover the use of all forms of nicotine? There are many forms of medicinal nicotine available on prescription and over-the-counter including lozenges, mouth sprays and gums. In particular, there is a licensed medicine called the Nicorette® Inhalator, which is a thin white tube from which you draw nicotine into your mouth in the same way as you smoke a cigarette. Unlike most NCPs of the electronic cigarette type, it does not produce a vapour, nor does it light up at the end. Would you want your policy to permit or prohibit the use of this medicine which many people find an effective aid to stopping smoking?
- **Vapour?** Should your policy cover only products that create a vapour? From a distance there is no doubt that some people will mistakenly perceive that people are smoking and may make complaints as a result. The inhalator described above, may look very much like a cigarette but does not produce any vapour and it does not have a glowing tip.
- **Medicines?** At the time of writing (October 2013) the MHRA has not licensed any so-called “electronic cigarettes” as medicines but we understand that some are being considered. Again, would your policy include stopping someone from using a licensed medicine which they are using because they have been advised is safe to use and an effective alternative to smoking?

3. Do you have concerns about the possibility of harm from NCPs?

Smoking tobacco in public is harmful in at least three major ways:

- Direct harm - smoking tobacco is directly harmful to the smoker,
- Indirect harm - both the smoke from lit tobacco and the exhaled air of the smoker are harmful to bystanders, especially indoors or when the smoker and bystander are in close proximity,
- Role models - young people who see smoking can mistakenly believe this to be a normal adult activity and this may influence them to smoke themselves.

NCPs are not the same as cigarettes, which burn tobacco. It is important to remember that, despite their resemblance to cigarettes, they are in no way cigarettes in anything but name: they do not produce smoke (products of combustion). They may use flavourings which have been derived from tobacco and they may produce a vapour which will be largely propylene glycol (PG), nicotine and flavourings. Studies on animals exposed to high intensities of PG found no evidence of harm and PG is classified as “Generally Recognised as Safe” by the US Food and Drugs Administration: indeed, so safe that it could be ingested as 5% of the daily diet over long periods of time without sign of frank toxicity. While some commentators have raised possible health risks to the user, there is no situation where it would be safer to smoke a cigarette, either for the user or those around them. Importantly, there is no evidence of harm from “secondhand” inhalation of NCP vapour.^{11,12,13,14,15}

The ‘harms’ in relation to the use of NCPs are very different:

- **Direct harm:** The MHRA reviewed 4 brands of NCP and found some evidence of potentially harmful chemicals in some products. Reviewing the literature the MHRA found high variability and evidence of the presence of several potentially harmful constituents. These two sets of findings informed the decision to regulate NCPs for safety. However, they concluded that reported safety issues “do not of themselves suggest a major public health concern” and found no evidence that NCP use was more harmful than smoking. In the UK, 99% of NCP users are smokers or ex-smokers. In so far as they completely replace tobacco smoking with NCPs, users reduce the harm they cause themselves and others.^{16,17,18}
- **Indirect harm:** We have been unable to find any published scientific evidence of harm from indirect exposure to NCPs. The MHRA review considered four studies looking at passive harm, or what we would call ‘secondhand exposure’. All these studies found levels of potentially harmful constituents in vapour at levels which are, by many times, lower than tobacco smoke, with one concluding “no apparent risk to human health”.¹⁷
- **Role models:** Many public health advocates are concerned that the availability and use of NCPs that resemble cigarettes, as some NCPs do, could “re-normalise” smoking, so encouraging their use among children and acting as a gateway to smoking. Others have suggested use of NCPs does not model smoking, but the replacement of smoking, with users conspicuously avoiding the harms smoking causes. As yet, there is little evidence on either side. The available evidence does suggest that, so far, sustained use of NCPs among children in Britain is limited to those who have already tried smoking. This will remain an important area of research.¹⁶

4. Will restricting or prohibiting use of Nicotine Containing Products support compliance with smokefree policies?

One common rationale for restricting or prohibiting the use of NCPs is to support compliance with smokefree legal requirements and voluntary policies. This is because there are reasonable concerns that if people are allowed to use NCPs in places where the law prohibits smoking, or where no-smoking policies are in place, then they may be mistaken for actually smoking. This may encourage others to smoke believing either that it is permitted to do so or that no action will be taken against them for doing so.

Of course, it is entirely a matter for the owner, manager or person in control to decide what is to be permitted on their premises or in their vehicles. Some of the factors they may wish to take into account include the following:

- In pubs, clubs and restaurants it may be impractical for staff who are busy serving customers to be repeatedly checking to determine whether people are smoking or only using an NCP. In these circumstances a blanket prohibition may well be justified and people wishing to use NCPs could be required to do so outside the premises, just as smokers are required to do.
- In some circumstances, the permission to use NCPs may be used in order to discourage people from leaving the premises, for example where customers are engaged in activities from which the owner derives their income e.g. casinos and bingo halls, and where security cordons are in place e.g. where money or high value items are being stored or sold.
- Wherever NCP use is permitted and smoking needs to be discouraged, deterred and detected then the use of smoke alarms and ignition detectors can be useful, as well as signs to advise people these warning devices are being employed. Some of these can be set to operate a silent alarm, such as a flashing light, at a reception desk or other location where members of staff can be alerted to investigate.
- Where NCPs are being sold, for example at some airports and on some airplanes, it might well be considered to be unreasonable not to allow people to actually use the product they have been encouraged to purchase.
- There is no doubt that some people will try to avoid enforcement action by claiming an NCP was being used when in fact smoking has taken place. Drivers of taxis and other commercial vehicles have attempted to do so. Local Authority regulatory officers are perfectly able to determine when smoking has taken place through both the smell associated with tobacco smoking and the presence of ash and other smoking materials.
- Finally, it should be remembered that offering a safe and effective alternative to smoking tobacco to people who are addicted to nicotine may turn out to support compliance with smokefree legal requirements and make smokefree policies easier to implement.

5. Do you want your policy to help to improve people's health?

It is likely that the MHRA will license some Nicotine Containing Products as medicines and that these will include some which resemble cigarettes. Under MHRA proposals all similar products which are not licensed would have to be withdrawn from sale, although their actual use would not be illegal. It would probably be impractical for your policy to restrict use of NCPs to only licensed products. However, prohibiting the use of all NCPs, including the licensed products, could mean that you are denying people the use of prescribed medicines, which could assist them in giving up smoking, staying tobacco free or dealing better with periods when they are not allowed to smoke.¹⁹

So far, only a few, relatively small randomised control trials have been completed on the use of NCPs in supporting quit attempts and no NCPs have yet been licensed for this purpose. However, emerging evidence suggests that they may be as effective as nicotine products currently and there is evidence that smokers, even those who do not intend to quit, are able to reduce or completely replace their smoking when provided with NCPs.^{20,21,22}

Many NCP users are using them as part of a quit attempt (a supported attempt to stop smoking completely) or to reduce the harm to themselves and others from smoking. Requiring staff who are trying to quit to use their quitting aids only in smoking breaks in areas where others are smoking tobacco is unlikely to help them quit successfully.^{20,23}

Tips on formulating your policy on NCPs

- Be clear about what you are trying to achieve, especially on how you are intending to make the situation better.
- Be clear about precisely what you are prohibiting - nicotine containing products, things that could be confused with cigarettes, or both.
- Make sure your policy is good for health, by helping and not hindering smokers to reduce the harm caused by smoking.
- Consider the part that your policy can play in 'renormalising' or 'denormalising' the smokefree environment and promoting the right role models to children.

Further reading

- [ASH Briefing: Electronic Cigarettes](#)
- [ASH Factsheet: Smokefree Legislation](#)
- [ASH Briefing: Use of e-cigarettes in Great Britain among adults and young people](#)
- [ASH Briefing: The regulation of e-cigarettes and other nicotine products in the UK - Q&A](#)

Examples of products



Some NCPs do not emit vapour and have no glowing tip, such as “smokeless cigarettes”
Some NCPs look like cigarettes, contain nicotine, have a glowing red tip and emit vapour.
Some NCPs have tips that glow other than red
Some NCPs are available with nicotine and nicotine-free re-fills. Not all are designed to look like cigarettes.



References

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