Briefing on Part 2 of the Public Health (Wales) Bill: Tobacco and Nicotine Products

September 2015

The British Medical Association (BMA) is an independent professional association and trade union representing doctors and medical students from all branches of medicine all over the UK and supporting them to deliver the highest standards of patient care. We have a membership of over 153,000, which continues to grow every year.

Policy context
BMA Cymru Wales has responded to both the green and white paper consultations on the Public Health (Wales) Bill, and supports broad legislation to protect human health. In particular, we remain committed to highlighting the importance of including Health Impact Assessments within the Bill and have produced a separate briefing to evidence the importance of this.

This briefing outlines our position on Part 2 of the Bill which relates to tobacco and nicotine products, and provides further information on our position on e-cigarettes.

BMA Cymru Wales is largely supportive of the proposals laid out in the Bill and would consider that on balance the available evidence favours their enactment.

Outlined below are our responses to specific elements of the Bill and the evidence behind our conclusions.

Key positions
BMA Cymru Wales supports:

- creating a national register of retailers of tobacco and nicotine products;
- adding to the offences which contribute to a Restricted Premises Order (RPO);
- prohibiting the handing over of tobacco or nicotine products to people under the age of 18;
- restricting the use of nicotine inhaling devices such as electronic cigarettes in enclosed and substantially enclosed public and work places, bringing the use of these devices in line with existing provisions on smoking.

E-cigarettes
While e-cigarettes have the potential to reduce tobacco-related harm, by helping smokers to cut down and quit, we believe that a strong regulatory framework is required for the sale and use of e-cigarettes to:
• prohibit their use in workplaces and public places to limit second hand exposure to the vapour exhaled by the user, and to ensure their use does not undermine smoking prevention and cessation by reinforcing the normalcy of cigarette use;
• restrict their marketing, sale and promotion so that it is only targeted at smokers as a way of cutting down and quitting, and does not appeal to non-smokers, in particular children and young people;
• ensure they are safe, quality assured and effective at helping smokers cut down or quit.

Health impacts
Emerging evidence suggests that e-cigarettes are predominantly used together with conventional cigarettes by current smokers, for the purposes of cutting down or quitting smoking or to circumvent smoke free legislation.\(^7\) It is evident that the risks of using e-cigarettes with tobacco cigarettes (dual use) are likely to be much less beneficial than quitting smoking completely, or switching exclusively to e-cigarette use.

Current evidence suggests that e-cigarettes are primarily effective in helping smokers reduce the intensity of smoking (by cutting down), rather than the duration of smoking (by quitting). We support a regulatory framework that helps to ensure they are effective cessation aids.

Data from the 2011 International Tobacco Control Four Country Survey (Australia, Canada, UK, US) confirms that individuals report using e-cigarettes because they believe they are less harmful than cigarettes (79.8%), to reduce smoking (75.8%), and to help quit smoking (85.1%).\(^{iii}\)

E-cigarettes are no doubt less harmful than smoking tobacco, and while we welcome the recent research by Public Health England we believe that there needs to be much more research into the safety of their long-term use.

While BMA Cymru Wales supports the use of licensed nicotine replacement therapies (nrt) as a smoking cessation aid, it should be recognised that the consumption of nicotine is not risk-free. Nicotine is a highly addictive substance and users can become physically dependent.\(^{iv}\) We are concerned by the lack of regulation to ensure the efficacy, quality and safety of e-cigarettes including the variable concentration of nicotine in these devices.

Nicotine withdrawal is associated with craving, anxiety and stress.\(^{v}\) Research suggests that nicotine may be an important mechanism by which tobacco promotes tumour development, progression and resistance to cancer treatment, this is a particular issue for dual-use of e-cigarettes and conventional cigarettes.\(^{vi}\) The physiological effects of nicotine include increased blood pressure, increased heart rate transient tachycardia and vasoconstriction.\(^{vii\ viii xi}\)

Symptoms of nicotine toxic overdose include tremors, nausea, vomiting, convulsions, neuromuscular blockade, diarrhoea and gastrointestinal irritation.

Chronic exposure to nicotine is associated with an increased risk of stroke, hypertension, reproductive disorders, peptic ulcer disease and high total cholesterol.\(^{vi}\)

In addition to nicotine, e-cigarettes have been found to contain a range of other substances with negative health implications.\(^{xi\ xii xiii xiv xv xvi xvii xix xx xxi xii xiii xiv x xv xvi xvi ivxv xxvi xxviii xxix}\)

Studies have indicated that bystanders can be exposed to vapour emitted from e-cigarette use,\(^{xxix xxx xxxi xxii xiii xxiv xxv xxvi xxvii xxviii xxix}\) and the WHO has warned of the potential adverse health effects of exposure to toxicants and particles contained within e-cigarette vapour.\(^{xxiii}\)
Despite the evidence of risk associated with smoking e-cigarettes, it is worth emphasising that substituting tobacco with e-cigarettes is likely to substantially reduce exposure to tobacco-specific toxins and the potential health risks associated with exclusive e-cigarette use are therefore likely to be much lower than the risks of smoking tobacco cigarettes.

**Marketing and sales**

It is our concern that the e-cigarette marketing methods used across a range of advertising media and locations are likely to appeal to children, young people and non-smokers. These include point-of-sale displays; advertising via television, radio in print media and online; on billboards near schools; at university freshers fairs; and the marketing of flavoured e-cigarettes.xxxiv

BMA Cymru Wales is also concerned that e-cigarette marketing may have an adverse impact, reinforcing conventional cigarette smoking habits, as well as indirectly promoting tobacco smoking, increasing the likelihood of young people starting to smoke.xxxv xxxvi xxxvii

The e-cigarette market increased by 340% in 2013, and is estimated to be worth £193 million.xxxviii There are now more than 450 brands of e-cigarette, and 7,700 unique flavours.xxxix

E-cigarette promotion ranges from being advertised as ‘a healthier alternative to smoking traditional tobacco products’, to evocative advertising with phrases such as ‘love your lungs’, ‘vape with style’, ‘smoking is so last season’ and ‘add flavour to your lifestyle’. The advertising and promotion also frequently makes positive associations with recreational activities, sports and youth culture, and can incorporate celebrity endorsements.xl xli xlii The UK Advertising Standards Authority (ASA) has previously ruled that certain e-cigarette advertisements were considered misleading and made unsubstantiated claims relating to health.xlv

In terms of accessibility, e-cigarettes can be bought from a variety of high street outlets, ranging from newsagents, superstores, and pharmacies to pubs and specialist shops. E-cigarettes and liquid nicotine can also be purchased online, even in wholesale quantities.xlv

The legal status of e-cigarettes varies around the world. In some countries (eg Denmark, Canada, Israel, Singapore, Australia and Uruguay) the sale, import, or marketing of e-cigarettes is either banned, regulated in various ways, or the subject of health advisories by government health organisations. In others (eg New Zealand), e-cigarettes are regulated as medicines and can only be purchased in pharmacies.xlvi

**Safety and product quality**

In the UK, e-cigarettes are subject to regulation under the General Product Safety Regulations 2005, the Chemicals (Hazard Information and Packaging for Supply) Regulations 2009, and by trading standards.xlvii Worryingly, there is no requirement for manufacturers of e-cigarettes to list the nicotine content of their products, to include childproof safety features, or to take measures to protect against accidental overdose.xlviii

Laboratory analysis of e-cigarettes indicates that labelling of nicotine levels in e-cigarette liquid may be inconsistent and misleading.xlix The Trading Standards Institute and others have stated that safety concerns have come to light around some brands of e-cigarettes, including electrical safety, the need for proper labelling, and the provision of child resistant packaging.xlix

BMA Cymru Wales would advocate the introduction of stringent guidelines in terms of appropriate labelling and childproof safety features.
**Additional information**

It is vital that the use of e-cigarettes does not undermine the success of conventional tobacco control measures by reinforcing the normalcy of smoking behaviour in a way that other products containing nicotine do not. This specifically relates to the way these devices commonly resemble tobacco cigarettes, in terms of appearance, nomenclature and the way they are used, as well as features such as flavouring and styling that are potentially highly attractive to children, and may include cigarette brand reinforcement.

More research is needed to find out if the hand to mouth use of e-cigarettes either breaks or reinforces smoking behaviours, and whether e-cigarettes actually help smokers to quit.

To ensure successful and expedient implementation of the Public Health (Wales) Bill we would urge the Welsh Government to ensure an appropriate commensurate budget to ensure that the general public is made fully aware of the implications of the Bill coming in to force.

In addition to the Bill, BMA Cymru Wales would advocate regulating e-cigarettes as a licensed medicinal product to best reflect their use for harm reduction, bringing them in line with existing NRT products, and ensure effectiveness, quality and safety. This form of regulation would also provide the necessary controls on their marketing and promotion.

**Summary**

BMA Cymru Wales welcomes all recommendations laid out in Parts 1 and 2 of the current draft of the Public Health (Wales) Bill. We would encourage all Assembly Members, in particular members of the Health and Social Care Committee, to ensure that the strength of the proposed legislation is in no way watered down as it moves through the Assembly.

We are confident that on balance the available evidence favours the enactment of the proposals on tobacco and nicotine products laid out in the Bill.

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Williams M, Villarreal A, Boshilow K et al (2013) Metal and Silicate particles including nanoparticles are present in electronic cigarette cartomizer fluid an aerosol. PLOS one 8(3): e57987.


English PM (2013) Re: EU policy on e-cigarettes is a “dog’s dinner” says UK regulator (rapid response) BMJ 347: f6871.


North East Lincolnshire Council press release (05.01.12) Use e-cigarettes with care, warn trading standards officers.