



ASH Wales response to CAP/BCAP consultation on E-cigarettes: health claims and public health advertisements

About ASH Wales

ASH Wales is the only public health charity in Wales whose work is exclusively dedicated to tackling the harm that tobacco causes to communities. Further information about our work can be found at <http://www.ashwales.org.uk/>

We are engaged in a wide range of activities including:

- Advocating for tobacco control public health policy
- Undertaking tobacco control research projects
- Training young people and those who work with young people to provide factual information about the health, economic and environmental effects of smoking
- Engaging young people and professionals working with young people through the ASH Wales Filter project
- Bringing health information and advice to the heart of the community

We also oversee the Wales Tobacco or Health Network (a network of over 300 individual members) and the Wales Tobacco Control Alliance (an alliance of 35 voluntary and professional bodies in Wales), providing forums for sharing knowledge and best practice. Our newsletters for those interested in tobacco control directly reaches 1,190 subscribers every month, whilst our combined social media channels have a following of over 6,400 individuals and organisations, with the content of our three websites being viewed around 6,000 times every month combined.

ASH Wales has no direct or indirect links with, and is not funded by, the tobacco industry.

Consultation questions and answers

Question 1: Do you agree with CAP and BCAP's proposal to remove the prohibition on health claims from unlicensed nicotine-containing e-cigarettes? If not please explain why. Please also provide any relevant evidence not already taken into account by CAP and BCAP in making this proposal.

Yes, ASH Wales agrees with CAP and BCAP's proposal to remove the prohibition on health claims from unlicensed nicotine-containing e-cigarettes, but only when used in relation to tobacco cigarettes. We would not support any absolute claim for health benefits from vaping only a claim of relative health benefit compared to continuing to smoke.

ASH Wales has continually reviewed the body of evidence with regards to e-cigarettes and their impact on health. In our view the evidence base provides unequivocal support for the hypothesis that e-cigarettes are definitely less harmful than tobacco cigarettes. At the time of the last consultation both Public Health England¹ and the Royal College of Physicians² had concluded that e-cigarettes were significantly less harmful than smoking. Indeed, the PHE review in 2015 concluded that most toxins responsible for health damage from smoking are absent in e-cigarette aerosol and that those that are present are there at much lower levels than in conventional cigarettes. Since the last consultation additional studies in support of this position have been published.

For example, a study published in March 2017³ compared exposure to nicotine, tobacco-related carcinogens, and toxins among smokers of combustible cigarettes only, former smokers with long-term e-cigarette use only, former smokers with long-term nicotine replacement therapy (NRT) use only, long-term dual users of both combustible cigarettes and e-cigarettes, and long-term users of both combustible cigarettes and NRT. Long-term for the purpose of the study was defined as more than or equal to six months. There were 181 participants in the study, with 36 to 37 members in each group. After confounders were controlled for no clear between-group differences in biomarkers of nicotine intake (salivary or urine) were found. The e-cigarette-only and NRT-only users had significantly lower metabolite levels of one of the most important groups of carcinogens in tobacco, Tobacco Specific Nitrosamines (TSNAs), and also of toxic volatile organic compounds (VOCs) than tobacco smokers or dual users (tobacco smokers also using e-cigarettes or NRT). The levels of exposure in dual users and those only smoking combustible cigarettes to these compounds were similar. The conclusions of the study were that: *"Former smokers with long-term e-cigarette-only or NRT-only use may obtain roughly similar levels of nicotine compared with smokers of combustible cigarettes only, but results varied. Long-term NRT-only and e-cigarette-only use, but not dual use of NRTs or e-cigarettes with combustible cigarettes, is associated with substantially reduced levels of measured carcinogens and toxins relative to smoking only combustible cigarettes."*

The reduced harm of e-cigarettes in relation to tobacco smoking has been further evidenced by a study published in May 2017⁴ which randomised smokers to switch partially or completely to vaping or stop using nicotine products altogether. Acute changes in select physiological parameters associated with cardiovascular physiology (systolic and diastolic blood pressure (BP) and heart rate (HR)), pulmonary function (FVC, FEV1, and exhaled CO and NO) and adverse events were measured in 105 clinically confined subjects who were randomized into groups that either completely or partially switched from conventional cigarettes to e-cigarettes or completely discontinued using tobacco and nicotine products altogether. Use of the e-cigarettes for five days under the various study conditions did not lead to higher BP or HR values, negative respiratory health outcomes or serious adverse health events. Reductions in BP and HR vital signs were observed in most of the participants that either ceased tobacco and nicotine products use altogether or switched completely to using e-cigarettes. Pulmonary function tests showed small but non-statistically significant improvements in FVC and FEV1 measurements in most use groups. Statistically significant ($p < 0.05$)

benefits associated with smoking reduction were also noted in exhaled CO and NO levels. All study products were well tolerated. To summarise the conclusions *“The study findings suggest that there are potential cardiovascular and pulmonary function benefits when smokers switch to using e-cigarette products. This further reinforces the potential that e-cigarettes offer smokers seeking an alternative to conventional tobacco products.”*

Furthermore, in addition to the growing evidence base supporting the assertion that the use of e-cigarettes is significantly less harmful than smoking tobacco, since the last consultation there have also been other noteworthy developments. For instance, the regulatory framework for consumer e-cigarettes following the adoption of the EU Tobacco Products Directive has come into effect which has significantly reduced the variation in quality, safety and efficacy of products on the market. Moreover, NICE is currently updating its guidance on smoking cessation interventions and services (PH1 and PH10) and the revised guidance out for consultation includes a recommendation that healthcare professionals should offer advice to smokers on their use of e-cigarettes⁵.

A final reason why ASH Wales is supportive of CAP and BCAP’s proposal to remove the prohibition on health claims from unlicensed nicotine-containing e-cigarettes concerns the situation in Wales with regards to misperceptions about the relative harms of e-cigarettes. Unlike in England where there is clear messaging from public health authorities about e-cigarettes being less harmful than tobacco cigarettes, with e-cigarettes actively being promoted as a viable smoking cessation tool, in Wales the messaging has been more mixed. As part of the Public Health (Wales) Bill introduced in 2015 the Welsh Government included the proposal to restrict 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 into line with existing provisions on smoking. This led to confusion among the general public and health professionals alike in terms of whether or not e-cigarettes were just as harmful as tobacco cigarettes, with the latter also uncertain as to whether they should promote e-cigarettes as a smoking cessation alternative to regular smokers unable to quit via traditional Nicotine Replacement Therapy (NRT). Despite the proposals restricting the use of e-cigarettes being removed from the Public Health (Wales) Act passed in 2017, and although Public Health Wales have now published an updated position statement outlining the benefits of a smoker switching completely from smoking tobacco to using e-cigarettes, the misperceptions around the harms of e-cigarettes continue. Indeed, in its position statement Public Health Wales states that *“it is increasingly clear that the public is confused about the status of ENDS (Electronic Nicotine Delivery Systems) and their relative benefits and safety”*⁶. According to the latest YouGov survey commissioned by ASH Wales as many as 23% of respondents thought e-cigarettes were just as harmful as tobacco cigarettes⁷. Such misperceptions are concerning as they potentially discourage smokers who might otherwise switch to using e-cigarettes from doing so, or where they have switched make it more likely that they continue dual use; and may make it more likely that vapers who have quit using electronic cigarettes revert back to smoking. The view of ASH Wales is that the removal of the prohibition on health claims by CAP and BCAP will greatly assist in eradicating these misperceptions and provide clarity in the minds of the general public.

However, ASH Wales is extremely keen to stress that our backing for the CAP and BCAP’s proposal to remove the prohibition on health claims from unlicensed nicotine-containing e-cigarettes is dependent on any product specific claims being substantiated by product-specific evidence that the

claims are not misleading and that they are in possession of robust evidence that support any claims made for their products, in line with the Advertising Guidance on Substantiation. It would be helpful if CAP could provide specific guidance on what is meant by this as it does in other areas such as Health, Beauty and Slimming claims. Furthermore, as there are differing views and concerns about the impact of such a policy change and because it is a rapidly evolving public policy area we believe it would be appropriate for the current time if all ads making health claims were pre-vetted prior to publication by the ASA, until best practice is established and well understood by the manufacturers and importers.

ASH Wales' support for the CAP and BCAP proposal is also dependent on health claims only being allowed if they make clear that there is no significant health benefit from the dual use of e-cigarettes and tobacco cigarettes (i.e. continuing to smoke at the same time as vaping). Furthermore, all other requirements of section 22 of the code must still apply which, for example, prohibit the endorsement of e-cigarettes by public health professionals, require all marketing communications to be socially responsible and not to promote e-cigarettes to under 18s or non-smokers/non-nicotine users and that they should not carry any elements which could reasonably be associated in the audience's mind with tobacco products.

Question 2: Do you agree with CAP and BCAP's proposed changes to the wording of the rules, as set out above? If not please explain why.

Only wording that make a claim about the relative harm of using e-cigarettes compared to smoking lit tobacco should be allowed. This wording should relate clearly to replacing all tobacco use with e-cigarette use. Suitable wording may take the form: "vaping e-cigarettes is definitely less harmful than smoking tobacco".

Question 3: Do you agree with CAP's proposal to add qualifying text to the introductory text of the e-cigarette section of its Code as set out above? If not please explain why.

No ASH Wales is not in agreement with this. In our view the proposed text would allow tobacco companies and third parties connected to them to run advertising in the form of public health messaging. Any potential for the involvement of tobacco companies or tobacco industry linked or funded organisations, for example trade bodies or other third parties, in public health messaging should be avoided at all costs. History tells us that any tobacco industry funded campaign is most likely to be ineffective at best and counter-productive at worst as the tobacco industry seeks to further its own interests through the messages it conveys.

Furthermore, involving the tobacco industry in public health messaging, even incidentally, could be viewed as a breach of the UK's responsibilities under Article 5.3 of the Framework Convention on Tobacco Control. This states that "in setting and implementing their public health policies with

respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law". Permitting public health advertising by tobacco companies would certainly not protect public health policies from attack by the industry.

Question 4: Do you agree with the wording proposed? If not, please explain why and provide your suggestions as to how it should be amended.

No, see answer to Question 3 above.

Question 5: Do you have any other information or evidence that you think might be relevant to CAP's consideration of its regulation of public health advertisements which refer to e-cigarettes?

No.

References

- ¹ Public Health England. E-cigarettes: an evidence update. PHE publications gateway: 2015260. 28 August 2015.
- ² Royal College of Physicians. Nicotine without smoke: Tobacco harm reduction. London. RCP 2016.
- ³ Shahab L, Goniewicz ML, Blount BC, Brown J, McNeill A, Alwis U, Feng J, Wang L, West R. Nicotine, Carcinogen, and Toxin Exposure in Long-Term E-Cigarette and Nicotine Replacement Therapy Users: A Cross-sectional Study. *Annals of Internal Medicine*. March 2017.
- ⁴ D'Ruiz C, O'Connell G, Graff D, Yan X. Measurement of cardiovascular and pulmonary function endpoints and other physiological effects following partial or complete substitution of cigarettes with electronic cigarettes in adult smokers. *Regul Toxicol Pharmacol*. 2017 May 3;87:36-53. doi: 10.1016/j.yrtph.2017.05.002. [Epub ahead of print].
- ⁵ NICE. What our draft guidance says about #e-cigs as stop smoking aids. Twitter 21st September 2017.
- ⁶ Public Health Wales. E-cigarettes (Electronic Nicotine Delivery Systems (ENDS)). January 2017.

⁷ Fieldwork was undertaken between 16/02/2017 and 19/03/2017, a total of 1120 respondents were surveyed.