

Auckland Regional Public Health Service

Rātonga Hauora ā Iwi o Tamaki Makaurau



Working with the people of Auckland, Counties Manukau and Waitemata

Auckland Regional Public Health Service

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Submission on Policy Options for Electronic Cigarettes

Thank you for the opportunity for Auckland Regional Public Health Service (ARPHS) to provide a submission on the Policy Options for Electronic Cigarettes.

The following submission represents the views of the Auckland Regional Public Health Service and does not necessarily reflect the views of the three District Health Boards it serves. Please refer to **Appendix 1** for more information on ARPHS.

Yours sincerely,

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Summary:

ARPHS recognises that there is evidence that support the role of e-cigarettes as a harm reduction approach for smokers unable or unwilling to reduce their nicotine dependency through current cessation methods. However, ARPHS considers that there is also evidence which indicates e-cigarettes may play a role in the normalisation of tobacco consumption, particularly for young people. Denormalising tobacco consumption is a critical component in reducing youth initiation and supporting the Government goal of Smokefree Aotearoa by 2025.

To balance this dichotomy of benefit and potential harm, ARPHS recommends that e-cigarettes are legalised in NZ for the purpose of smoking cessation and tobacco harm minimisation. Controls need to support this objective and minimise e-cigarettes as a contributing factor to youth smoking initiation, and long term nicotine addiction.

To support this objective, ARPHS suggests the regulations contain provisions that reflect the following key recommendations:

1. The legalisation of e-cigarettes in New Zealand (NZ) should be tightly controlled through selected retailers that are qualified in cessation advice or referrals to services. Suggested retailers are licensed pharmacies and cessation services.
2. E-cigarettes containing nicotine can be perceived by younger audiences as “cool” and something to experiment with that can cause long term addiction. Therefore, we support the proposal to have e-cigarettes and e-liquids unavailable to young people under the age of 18 and exposure to the promotion of e-cigarettes (for any purposes) should be limited to 18+ audiences.
3. The advertising of e-cigarettes should only be for cessation purposes and available to view when smokers are looking to quit through appropriately licensed retailers.
4. E-cigarettes and e-liquid packaging should be standardised to acknowledge the unknown long-term health effects and help buffer against future (somewhat unknown) unintended consequences. Our submission suggests this can be done through applying the same packaging colour of Pantone 448C that tobacco products have and the application of health warnings.
5. We also believe that the Act should create consistency to encourage workplaces and tenancies to not vape in-doors or in spaces detailed in the Smoke-Free Environments Act 1990 (SFEA).
6. We are in support of the controls proposed in question 6 including the requirement to provide annual returns on sales data and consumer information on product content.

7. Health warnings on packages should be included about known health risks, including the risk of nicotine addiction, and keeping e-cigarettes and liquids away from the reach of children, along with Quitline information.
8. Testing for whether nicotine in E-cigarettes has been derived from tobacco or created synthetically is complicated, and hard to perform. Therefore, the regulations should cover nicotine either derived from tobacco or synthetically produced.
9. There is no current need to place an excise tax on e-cigarettes and e-liquids but we suggest placing a limit on the product amount available to be imported at any one time.
10. We agree with the quality controls proposed in question 8, but again, wish to bring attention to the complexity of testing e-cigarettes and liquids because of their vast amount of flavours and design. ARPHS recommends that requirements for proof of safety and quality should rest with wholesalers and manufacturers similar to the requirements for psycho-active substances proposed for sale in NZ.
11. A key consideration is to avoid creating confusion for existing smokefree environments. Signage and policies creating out-door vaping areas that are consistent with the spaces outlined in the Smoke-Free Environments Act 1990 should be considered.

Questions and Recommendations:

Question 1: Do you agree that the sale and supply of nicotine e-cigarettes and nicotine liquids should be allowed on the local market, with appropriate controls?

1. ARPHS overall understands the Ministry of Health's decision to legalise nicotine e-cigarettes and e-liquids as a cessation and harm-reduction tool for tobacco smokers, but recommends the following controls underpin the policy:
 - Extensive licensing of appropriate retailers including cessation services and pharmacies that are trained with the right cessation knowledge.
 - Licensed retailers should be located strategically away from areas where there is exposure to children and young people (as we would recommend for tobacco).
 - Well enforced and backed by robust evidence based legislation.
 - Strict in supporting the aim of a smokefree New Zealand (NZ) by 2025.

Question 2: Are there other (existing or potential) nicotine-delivery products that should be included in these controls at the same time? If so, what are they?

2. ARPHS does not have any other nicotine-delivery products that should be included in these controls. However, we recommend an awareness of emerging nicotine devices that are under development and could come into the market in the future.

Question 3: Do you think it is important for legislation to prohibit the sale and supply of e-cigarettes to young people under 18 years of age in the same way as it prohibits the sale and supply of smoked tobacco products to young people?

3. It is important for legislation to prohibit the sale and supply of e-cigarettes to young people less than 18 years of age consistent with tobacco product law. Research has proven young people have started to use e-cigarettes more and this has become a cause for concern because of the addictive nature of nicotine.^{1,2} In New Zealand, The Youth Insights Survey analysed the results of two surveys completed in 2012 and 2014 by year 10 students and found a 13% increase in e-cigarette consumption.³ The main cause for this increase in consumption among both year 10 smokers and non-

¹ Bach, L. (2016). Electronic Cigarettes and Youth. Campaign for Tobacco-Free Kids Retrieved from: <https://www.tobaccofreekids.org/research/factsheets/pdf/0382.pdf>

² Choi, K., Fabian, L., Mottey, N., Corbett, A., & Forster, J. (2012). Young adults' favourable perceptions of snus, dissolvable tobacco products, and electronic cigarettes: findings from a focus group study. *American journal of public health, 102*(11), 2088-2093.

³ White, J., Li, J., Newcombe, R., & Walton, D. (2015). Tripling use of electronic cigarettes among New Zealand adolescents between 2012 and 2014. *Journal of Adolescent Health, 56*(5), 522-528.

smokers was curiosity about e-cigarettes. Other research indicates an increased rate of youth initiation of tobacco smoking within 12 months of trying e-cigarettes.⁴

4. Therefore ARPHS recommends that the sale and supply of e-cigarettes and liquids be prohibited to people under the age of 18 as a tool for future proofing against any health effects yet to be discovered by research, and preventing the use of it as a pathway to nicotine addiction.

Question 4: Do you think it is important for legislation to control advertising of e-cigarettes in the same way as it controls advertising of smoked tobacco products?

5. ARPHS suggests mass media advertisements of e-cigarettes is unnecessary and introduces the risk of e-cigarettes being used for consumer leisure purposes instead of cessation use. Therefore, we suggest the following advertisement controls be considered.

Display of e-cigarettes in or from sale outlets

6. The advertisement and marketing of e-cigarettes should be visible only to the extent that is necessary for it to be delivered in accordance with the SFEA 1990, section 23 A (4) at selected licensed providers, cessation services and pharmacies.
7. ARPHS believes that licensed providers such as cessation services and pharmacies would help control the sale and supply of e-cigarettes. This also helps reinforce the powers of licensing and enforcement officers in monitoring the sale and supply of e-cigarettes in NZ.
8. The selected providers must not be in the same areas as schools or any other location where young people are likely to be exposed to it (as we would recommend for tobacco).
9. Controlling advertising to smokers looking to quit allows cessation advisers to provide the right information and support the use of e-cigarettes as a nicotine replacement therapy. It also ensures there is no unnecessary advertisement of e-cigarettes through public avenues including television advertisements and online advertisements.
 - A recent study in South Korea exploring the impacts of introducing e-cigarettes without tight regulatory controls, revealed advertising for e-cigarettes increased the attractiveness by using captions such as “healthy cigarettes”. The demand for e-cigarettes rapidly grew especially among young people who had open access

⁴ Barrington-Trimis, J. L., Urman, R., Berhane, K., Unger, J. B., Cruz, T. B., Pentz, M. A., & McConnell, R. (2016). E-cigarettes and future cigarette use. *Pediatrics*, *138*(1), e20160379.

to an array of e-cigarette products through an uncontrolled retail market both in shops and online through blogs dedicated to providing information on where to purchase the latest e-cigarettes products.⁵

- Research in America indicated that media outlets such as television advertisements were increasingly used over the last couple of years. This drastically changed public perception about the use of e-cigarettes from a smoking cessation tool to a consumer smoking behaviour that is “cool”.⁶

Smokefree 2025 is the goal

10. ARPHS emphasises that the purpose of legalising e-cigarettes and e-liquids for tobacco smokers is to provide comprehensive and effective support in quitting the addictive behaviour of smoking.⁷ Thereby, controlling the advertising on the availability and accessibility of e-cigarettes and e-liquids allows the main goal of Smokefree 2025 to progress without creating a new market of consumers addicted to nicotine.⁸ It is noted actions with good intentions can have unintended consequences.

Standardisation of e-cigarette products

11. ARPHS supports the intent to use e-cigarettes and e-liquids as a cessation tool to help smokers in quitting the consumption of tobacco, and for harm reduction amongst a small number of longstanding smokers who never intended to quit.

12. We recommend this is best done when packaging of e-cigarettes and e-liquids are controlled. Our preference is that packaging of e-cigarettes and e-liquids are consistent with the proposed standardised packaging of tobacco products. Though e-cigarettes may not be as harmful and might not pose the same health risk to the public, the attractive packaging defeats the original intent of e-cigarettes as primarily a cessation tool.⁹

- The previously mentioned study in South Korea⁵ suggested people were more attracted to e-cigarettes because of the choice in packaging. E-cigarette packaging was perceived to be “fashionable” among youth encouraging use.

⁵ Lee, S., Kimm, H., Yun, J. E., & Jee, S. H. (2011). Public health challenges of electronic cigarettes in South Korea. *Journal of Preventive Medicine and Public Health*, 44(6), 235-241.

⁶ Kim, A. E., Arnold, K. Y., & Makarenko, O. (2014). E-cigarette advertising expenditures in the US, 2011–2012. *American journal of preventive medicine*, 46(4), 409-412.

⁷ Britton, J., Arnott, D., McNeill, A., Hopkinson, N., & Tobacco Advisory Group of the Royal College of Physicians. (2016). Nicotine without smoke—putting electronic cigarettes in context. *BMJ*, 353, i1745.

⁸ Edwards, R., Hoek, J., & van der Deen, F. (2014). Smokefree 2025—use of mass media in New Zealand lacks alignment with evidence and needs. *Australian and New Zealand journal of public health*, 38(4), 395-396.

⁹ Zhu, S. H., Gamst, A., Lee, M., Cummins, S., Yin, L., & Zoref, L. (2013). The use and perception of electronic cigarettes and snus among the US population. *PloS one*, 8(10), e79332.

Adult smokers were encouraged to utilise e-cigarettes to avoid withdrawal but were not informed of the effects of nicotine addiction.³



Figure 1 Example of e-cigarette packaging

13. E-cigarette and e-liquid product packaging should require tailored health messages about the possible health risks of vaping.¹⁰ The use of pictures is also effective in portraying consumer information about keeping products away from children, nicotine addiction and Quitline contact information.¹¹
14. If the principle purpose of e-cigarettes is a nicotine replacement therapy, multiple flavours are unnecessary. There should be one simple e-liquid flavour available instead of the current multitude of e-liquid flavours including chocolate, bubble-gum and shisha. This is an example of marketing tools designed to entice people to use addictive products through creating new and sustaining old addictions to nicotine.¹²
15. Colour of e-cigarette and e-liquid should be tightly controlled so as not to mislead consumers.
 - The colour of e-cigarettes should also be a standardised colour (we suggest Pantone 448C).

¹⁰ Wilson N, Gartner C, Edwards R. 2016. What does recent biomarker literature say about the likely harm from e-cigarettes? Public Health Expert Blog. URL: <https://blogs.otago.ac.nz/pubhealthexpert/> (accessed 31 August 2016).

¹¹ Pearson, J. L., Richardson, A., Niaura, R. S., Vallone, D. M., & Abrams, D. B. (2012). E-Cigarette awareness, use, and harm perceptions in US adults. *American journal of public health, 102*(9), 1758-1766.

¹² Farsalinos, K. E., Romagna, G., Tsiapras, D., Kyrzopoulos, S., Spyrou, A., & Voudris, V. (2013). Impact of flavour variability on electronic cigarette use experience: an internet survey. *International journal of environmental research and public health, 10*(12), 7272-7282.



Figure 2 Example of e-cigarette devises

Question 5: Do you think it is important for the SFEA to prohibit vaping in designated smokefree areas in the same way as it prohibits smoking in such areas?

16. ARPHS suggests vaping e-cigarettes be prohibited in places consistent with the SFEA, 1990 including in schools, workplaces, parks and other areas within close proximity to children. This would role model the principle of de-normalising smoking and nicotine addiction altogether.
- Research from America suggests second hand vaping is not desirable in public spaces such as restaurants and parks. An analysis of a national online survey in America found respondents preferred that vaping be included under smoking laws till the long term negative health effects of it can be proven.¹³
17. We also recommend the progress made through Wellington's Smokefree Action Plan Policy in terms of discouraging e-cigarettes in workplaces, public spaces and new tenancies also be considered nationally.
- The Wellington Council's Smokefree Action Plan 2016-2017 towards achieving Smokefree 2025 encourages people to not smoke e-cigarettes in places where smoking is prohibited including public buildings and new housing tenancies. It clarifies that organisations can prohibit the use of e-cigarettes in their workplace policies and supports them in doing so.¹⁴

Question 6: Do you agree that other controls in the SFEA for smoked tobacco products should apply to e-cigarettes?

18. ARPHS agrees with the controls proposed including disclosing product content on packaging and annual returns and sales data. We suggest the NZ regulations also be

¹³ Mello, S., Bigman, C. A., Sanders-Jackson, A., & Tan, A. S. (2015). Perceived harm of second-hand electronic cigarette vapours and policy support to restrict public vaping: Results from a National Survey of US Adults. *Nicotine & Tobacco Research*, ntv232.

¹⁴ Wellington City Council. (2016). *Smokefree Wellington Action Plan 2016-2017*. Wellington City Council.

aware and consider the controls included in the United Kingdom Revised Tobacco Product Legislation 2016, part 6 & 7 which included the following:¹⁵

- Manufacturers are required to provide contact details to the authority in charge.
- A list of the ingredients in the liquid including test results i.e. toxic data on effects to health after inhalation and exhalation.
- A detailed description about the design of the e-cigarette and any additional features on it.
- A declaration that the manufacturer is responsible for product malfunction.
- A description of the production process is required.
- Whether the nicotine is derived from tobacco or synthetically derived needs to be the responsibility of the producers to communicate it clearly on their products.

Question 7: Do you think it is important for legislation to impose some form of excise or excise-equivalent duty on nicotine e-liquid, as it does on tobacco products?

19. ARPHS does not see a need to apply an excise tax on nicotine containing e-cigarettes, but encourages regulations to place a limit on the amount of e-cigarettes and e-liquids available to be imported for up to three months at a time.

Question 8: Do you think quality control of and safety standards for e-cigarettes are needed?

20. ARPHS agrees with the controls proposed in the table for quality control but identifies that testing for the composition of tobacco-derived-nicotine and other chemicals in e-liquid that is vaped is complicated to prove. We suggest legislation needs to include the same regulations for nicotine, whether derived synthetically or from tobacco, in the SFEA or in new law that give powers of enforcement to smokefree environment officers.

¹⁵ The Tobacco and Related Products Regulations 2016. Retrieved from http://www.legislation.gov.uk/uksi/2016/507/pdfs/uksi_20160507_en.pdf

Appendix 1 - Auckland Regional Public Health Service

Auckland Regional Public Health Service (ARPHS) provides public health services for the three district health boards (DHBs) in the Auckland region (Auckland, Counties Manukau and Waitemata District Health Boards).

ARPHS has a statutory obligation under the New Zealand Public Health and Disability Act 2000 to improve, promote and protect the health of people and communities in the Auckland region. The Medical Officer of Health has an enforcement and regulatory role under the Health Act 1956 and other legislative designations to protect the health of the community.

ARPHS' primary role is to improve population health. It actively seeks to influence any initiatives or proposals that may affect population health in the Auckland region to maximise their positive impact and minimise possible negative effects on population health.

The Auckland region faces a number of public health challenges through changing demographics, increasingly diverse communities, increasing incidence of lifestyle-related health conditions such as obesity and type 2 diabetes, infrastructure requirements, the balancing of transport needs, and the reconciliation of urban design and urban intensification issues.

