



Department  
of Health &  
Social Care

# **The impact of tobacco laws introduced between 2010 and 2016**

**Survey form**

## Introduction

We are conducting a post-implementation review looking at the tobacco legislation introduced between 2010 and 2016.

The review considers how effective tobacco legislation has been in:

- discouraging young people from taking up smoking and vaping
- encouraging existing smokers to quit
- protecting others from the harmful effects of cigarette smoke

The legislation introduced during this time includes bans on:

- displaying tobacco products and prices in shops
- selling nicotine-inhaling products, including e-cigarettes, to under 18s
- buying nicotine-inhaling products on behalf of someone under 18 (proxy purchasing)
- smoking in cars containing children

We want your opinions and evidence on the legislation. Your views will help us to assess whether the legislation has achieved its objective.

## Instructions

Please complete this application form in word format. You will be able to change the sizes of the answer boxes as appropriate for your answer.

You do not have to respond to every question. You can choose to respond to only those questions that are relevant to you.

Please return this form by email when completed to: [healthy.behaviours@dhsc.gov.uk](mailto:healthy.behaviours@dhsc.gov.uk)

If you wish to respond in writing, please print and complete this form, attaching any additional sheets as necessary and send it to the address below. If you would prefer not to use the form, or are unable to do so, please write with your answers and comments to:

**Tobacco Legislation Consultation 2019  
Healthy Behaviours  
Department of Health and Social Care  
2N04 Quarry House  
LS2 7UE**

# Consultation questions

## Section 1: The Tobacco Advertising and Promotion (Display) (England) Regulations 2010

These regulations apply to the display of tobacco products in small and large shops (display ban) and came into force on 6th April 2012 in larger shops and 6th April 2015 for all other outlets.

The regulations prohibit the display of tobacco products in small and large shops, allowing trading to continue but preventing them from being used as promotional tools. All retailers are required to cover up cigarettes and hide all tobacco products from public view.

The full [Tobacco Advertising and Promotion \(Display\) \(England\) Regulations 2010](#) are published on [Legislation.gov.uk](#)

### Objectives

- To protect children and young people from health harms of smoking.
- Create a supportive environment for adults who are trying to quit smoking by implementing the prohibition of tobacco products displays.

The regulations recognise that retailers need to be able to serve customers and restock products, and that staff need to know where products are kept.

### **Do you think the display ban of tobacco in small and large shops has helped to reduce the number of children and young people smoking?**

I don't know if it has or has not

### **Please give reason(s) for your answer.**

The rate of young people who have ever smoked has declined considerably from 53% in 1982 to 23% in 2012 and 16% in 2017 (NHS Digital Smoking, Drinking and Drug Use among Young People in England 2018). However, we believe it is difficult to attribute the tobacco display ban, or any single regulatory intervention, to the decline of children and young people smoking.

Young people's attitudes have changed towards smoking with 54% believing it is OK to try smoking to see what it's like in 1999 compared to 31% in 2012 and 24% in 2018 (NHS Digital Smoking, Drinking and Drug Use among Young People in England 2018). Since 2012, other legislation has also been introduced including the Tobacco Products Directive,

which banned the manufacture and sale of cigarette packs with less than 20 cigarettes, banned the manufacture and sale of hand rolling tobacco weighing less than 30g, and increased the size of health warnings on packs. The Standardised Packaging of Tobacco Regulations was also introduced which required all tobacco packaging to be a standard dull brown colour with a matt finish. As such, the decline of the smoking rates amongst young people and children cannot be solely attributed to the tobacco display ban as it is not clear whether the decline is due to already changing attitudes towards smoking as well as the introduction of other legislation.

Moreover, the Smoking, Drinking and Drug Use Report in 2018 did look into whether pupils have seen a display of cigarettes. The report found that in 2012, 63% of pupils had seen cigarette packets displayed in a supermarket, 75% in a newsagent, tobacconist or sweet shop, and 59% in a petrol station or garage shop. In 2018, 56% of pupils had seen cigarette packets on display in a supermarket, 60% in a newsagent, tobacconist or sweetshop, and 52% in a petrol station or garage shop. It is important to note that the question was worded “In the past year, have you seen cigarette packets on display in any of the shops listed below? Only include shops where you have seen cigarette packets displayed on a shelf or counter. Do not include signs or adverts saying cigarettes can be bought.” This means that the response from pupils could include when they have seen a requested display of tobacco, for example, when accompanying a parent or friend who is purchasing tobacco or being behind someone in the queue who has requested a display of tobacco. It is confusing that this result infers that pupils were either successful at requesting a display of tobacco or that the retailer was not complying with the tobacco display ban. We would recommend that in future, the Smoking, Drinking and Drug Use survey rephrase the question to ask in what circumstances they had seen cigarette packets on display and if this in turn motivated any behaviour.

**Do you think the tobacco display ban has encouraged and supported adult smokers to quit?**

I don't know if it has or has not

**Please give reason(s) for your answer.**

As set out above, while adult smoking rates have declined from 19.8% in 2011 to 14.7% in 2018 (ONS Adulting Smoking Habits in the UK 2018), it is difficult to attribute this to the implementation of one particular measure. Not only could the decline be due to the introduction of other legislation but could be attributed to the growth of the e-cigarette market which are perceived as a smoking cessation tool. This could also be due to other legislation as well as the uptake and growth of the e-cigarette market which are a smoking cessation tool. In 2018, 6.3% of adults were current e-cigarette users. This continues the upward trend since 2014 when it was 3.7%. The most common reason (52.8%) e-cigarette

users gave for use was to aid themselves in quitting smoking (ONS Adulting Smoking Habits in the UK 2018)

**What impact do you think the display ban has had on:**

**Retailers;**

**Please provide details and evidence for your answers.**

The legislation required that retailers prevent the display of tobacco products in their shops except to people over the age of 18. To comply with the regulations, retailers needed to adopt and invest in a solution, for example, a curtain covered display, sliding doors or non-visible storage solutions. While tobacco manufacturers provided retailers which they had a direct contract/relationship with a compliant tobacco gantry, many convenience retailers experienced costs for a shop fitter to build and install a tobacco gantry compliant with the regulations.

We welcomed the three-year transition period for smaller shops to comply with the regulations as the legislation itself was challenging particularly for smaller retailers to interpret. The transition period allowed for key issues to be identified with the legislation and for several pieces of guidance to be developed. The Department of Health and Social Care, the Chartered Trading Standards Institute and ACS all developed guidance to support retailers. ACS' guidance was Assured Advice developed with our Primary Partners, Buckinghamshire and Trading Standards. The guidance was downloaded thousands of times and we received hundreds of calls from retailers with questions about the legislation in advance of implementation. This in turn led us to seek assurance on frequently asked questions that still feature on our website here: <https://www.acs.org.uk/tobacco-display-ban-faqs>.

The Tobacco Advertising and Promotion (Display) (England) Regulations 2010 also made it an offence for tobacco products to be visible while they are being moved around the shop, for example, while being taken from the stock room to the gantry to restock. Retailers are still required to comply with this requirement although Standardised Packaging of Tobacco was introduced. We believe the government should review the relevance of the regulations versus the operational impact to ensure that retailers are not unnecessarily being burdened by the interaction of tobacco display ban regulations and other legislation since introduced.

**Is the display ban an effective way to protect children and young people from taking up smoking and supporting those who wish to quit?**

I don't know if it is or is not

**Please give reason(s) for your answer.**

As set out above, it is difficult to conclude that the display ban has been effective to protect children and young people from taking up smoking and supporting those that wish to quit.

**Were there any economic losses or gains (for individuals, businesses and wider society) associated with implementing the display ban on tobacco products?**

Yes, I think there were some economic losses or gains

**Please give reason(s) for your answer, including any quantitative values and provide evidence.**

The legislation required that retailers prevent the display of tobacco products in their shops except to people over the age of 18. To comply with the regulations, retailers needed to adopt and invest in a solution, for example, a curtain covered display, sliding doors or non-visible storage solutions. While tobacco manufacturers provided retailers which they had a direct contract/relationship with a compliant tobacco gantry, many convenience retailers experienced costs for a shop fitter to build and install a tobacco gantry compliant with the regulations.

Retailers would have also incurred costs from training staff about how to comply with the new regulations.

The HIM Retail Tracker May 2015 suggested that nearly a third (29%) of retailers believed there had been a negative effect on sales following the tobacco display ban and over a quarter (26%) of retailers believed that it had had a negative impact on overall footfall of their store. However, the majority (64% and 72% respectively) responded that there had been no impact on tobacco sales or overall footfall in store. The HIM Convenience Barometer May 2015 suggested that 26% of convenience store shoppers had bought fewer cigarettes and tobacco products since the display ban.

## **Section 3: The Tobacco and Advertising (Display of Prices) (England) Regulations 2010**

These regulations impose requirements on the display of prices of tobacco products in small and large shops and came into force on 6th April 2015.

The regulations permit only three types of tobacco price displays within retailers:

- 1) Poster style lists (up to A3 in size) which can be permanently on show but must not exceed 1,250sq centimetres in size
- 2) A list including pictures of products, which must not be left on permanent show, but can be shown to any customer aged 18 or over who asks for information on tobacco products sold; and
- 3) Price labels, which can be placed on shelving, storage units or tobacco jars. One price label is permitted for each product either on the covered shelf where the product is stored or on the front of the storage unit.

The full [Tobacco and Advertising \(Display of Prices\) \(England\) Regulations 2010](#) are published on Legislation.gov.uk.

### **Objectives**

- To protect children and young people from the harms of smoking
- Create a supportive environment for adults who are trying to quit smoking by ensuring that price lists and labels cannot be exploited as forms of tobacco promotion.

The regulations do recognise that shops and businesses need to display necessary information on what tobacco products they sell and for what price.

**Have the restrictions on the display of prices of tobacco products helped reduce the number of children and young people smoking?**

I don't know if it is or is not effective

**Please give reason(s) and evidence for your answer**

As set out in response to the questions relating to impact of the tobacco display ban on the reduction of young people and children smoking, it is challenging to attribute this decline to

any specific piece of legislation. It is important to set out that before the display ban, shelf edge labelling was permitted, and following the legislation, was still permitted as well as other tobacco price displays to ensure that the price was clearly communicated to the consumer. There is no definitive evidence to suggest there has been an impact.

**Have the restrictions on the display of prices of tobacco products helped encourage and support adult smokers to quit?**

I don't know if it is or is not effective

**Please give reason(s) and evidence for your answer.**

As set out in response to the questions relating to impact of the tobacco display ban on the reduction of adults smoking, it is challenging to attribute this decline to any specific piece of legislation. It is important to set out that before the display ban, shelf edge labelling was permitted, and following the legislation, was still permitted as well as other tobacco price displays to ensure that the price was clearly communicated to the consumer. There is no definitive evidence to suggest there has been an impact.

**What impact do you think the restriction of display of prices of tobacco products has had on the following:**

**Retailers**

**Please give reason(s) and evidence for your answers.**

The Department of Health and Social Care, the Chartered Trading Standards Institute and ACS all developed guidance to support retailers. ACS' guidance was Assured Advice developed with our Primary Partners, Buckinghamshire and Trading Standards. The guidance was downloaded thousands of times and we received hundreds of calls from retailers with questions about the legislation in advance of implementation. This in turn led us to seek assurance on frequently asked questions that still feature on our website here: <https://www.acs.org.uk/tobacco-display-ban-faqs>.

The frequently asked questions that ACS developed with Buckinghamshire and Trading Standards look to clarify questions about the legislation itself. For example, the regulations stipulated that the price lists must only use black Helvetica plain font. However, Helvetica is not used on more recent word processors and as such we sought reassurances that Arial was also compliant.

Questions have also related about the use of technology to display price lists, for example, if handheld tablets can be used to display tobacco price lists. In this case we received guidance that it would not comply with the regulations. More recently, we have received enquiries from members about the use of tobacco prices lists on self-scan tills and whether those are compliant with the regulations. As the Department of Health of Social Care reviews the post implementation of the regulations relating to restrictions of the display of prices of tobacco products, we believe that they should consider how the regulations will apply in the future, with increased use of self-scan tills, digital screens, and digital shelf edge labels.

**Is restricting the display of prices of tobacco products an effective way to protect children and young people from taking up smoking and support those who wish to quit?**

I don't know if it is or is not effective

**Please give reason(s) and evidence for your answer.**

As set out in response to the questions relating to impact of the tobacco display ban on the children and young people taking up smoking and support those who wish to quit, it is challenging to attribute this decline to any specific piece of legislation. It is important to set out that before the display ban, shelf edge labelling was permitted, and following the legislation, was still permitted as well as other tobacco price displays to ensure that the price was clearly communicated to the consumer. There is no definitive evidence to suggest there has been an impact.

**Were there any economic losses or gains (for individuals, businesses and wider society) associated with carrying out this regulation in the community?**

Yes, I think there were economic losses or gains

**Please give reason(s) and evidence for your answer.**

Retailer incurred costs from developing new materials to ensure that their price lists were complaint with the legislation as well as staff training costs.

## Section 5: The Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations 2015

These regulations came into force as of 26 March 2015 for proxy purchasing and 1 October 2015 for all other provisions. These regulations apply in England and Wales.

The regulations prohibit both the sale of Nicotine Inhaling Products (NIPs) including e-cigarettes to under 18s, as well as the purchase of these products on behalf of a minor (proxy purchasing).

The full [Nicotine Inhaling Products \(Age of Sale and Proxy Purchasing\) Regulations 2015](#) are published on [Legislation.gov.uk](#).

### Objectives

- To limit the sale of nicotine inhaling products (NIPs) such as electronic cigarettes (and related products including refill cartridges and nicotine liquids) to adults only, with only certain limited exceptions for medicinal products.
- Limit the availability of NIPs to under 18's, restricting scope for children and young people to become addicted to nicotine, minimising potential gateway effect into smoking.

### **Do you think the Nicotine Inhaling Products Regulations have helped to prevent the sale of nicotine inhaling products, including e-cigarettes, to under 18s?**

Yes, I think they have

Please give reason(s) and evidence for your answer.

ACS members have a strong commitment to responsible retailing and welcomed clarity on the age limit for sale of nicotine inhaling products in 2015.

There is limited evidence about the effectiveness of the age restriction, however, in the NHS Digital Smoking, Drinking and Drug Use report, in 2018 the most common sources for young people (who were regular e-cigarette users) to obtain e-cigarettes was by being given them by people (58%), including friends, brother or sisters, parents or by someone else. 41% of young people also responded that they bought e-cigarettes from people, including friends or relatives (29%) or someone else (26%)/ The percentage of young people purchasing e-cigarettes from shops was considerably lower with 8% being able to purchase from a newsagent, 8% from a supermarket and 4% from a garage shop. In

comparison, 17% of young people were able to obtain e-cigarettes from an e-cigarette shop.

Proxy purchasing is a symptom of an effective age-restriction framework and action by retailers to prevent underage sales. Proxy purchasing is a concerning issue for retailers because they believe they are providing a legitimate sale. Not only is it difficult for a retailer to identify proxy purchasing, but also to challenge it. We would welcome further engagement with the Department of Health and Social Care and the Chartered Trading Standards Institute to look at ways to tackle proxy purchasing of e-cigarettes.

**Has anyone else benefitted from the age restriction and proxy purchasing (when an adult buys a product on behalf of a minor) ban on nicotine inhaling products?**

Yes

**Please give reason(s) and evidence for your answer.**

Retailers. ACS supported the introduction of an age restriction for nicotine inhaling products as it provides retailers with clarity on the sale of e-cigarettes. Our position as set out in our response to the consultation regarding the introduction of a minimum age of sale on nicotine inhaling products was that: "E-cigarettes are a new and growing product category for our members. Currently there is no legislation in effect in the United Kingdom to regulate the sale of nicotine inhaling products. This has left retailers to decide what is deemed best practice. ACS members have a strong commitment to responsible retailing and would welcome clarity on the age limit for sale of nicotine inhaling products."

**What impact do you think the age restriction and proxy purchasing ban on nicotine inhaling products has had on:**

**(a) People under 18**

Stopped access to obtaining e-cigarettes by purchasing at retail outlets. Different methods used to obtain e-cigarettes through proxy purchasing or online purchases.

**(b) People over 18**

None.

**(c) Retailers**

While some retailers had introduced voluntary age restrictions for e-cigarettes ahead of the legal age restriction, many retailers still needed to introduce staff training on the legal age restriction and those that had already introduced a voluntary age restriction updated their signage and training materials to reflect that it was now a legal age restriction

**Is the age of sale restriction and ban on proxy purchasing of nicotine inhaling products an effective way to protect children and young people from harms of nicotine-containing products?**

**Please give reason(s) and evidence for your answer.**

There is still work needed to tackle the main source of e-cigarettes by young people, proxy purchasing. We would welcome further engagement with Department of Health and Social Care on ways to tackle proxy purchasing of e-cigarettes.

**Were there any economic losses or gains (for individuals, businesses and wider society) associated with carrying out this regulation in the community?**

Yes, I think there were economic losses or gains

**Please give reason(s) and evidence for your answer.**

Retailers would have incurred costs due to training staff on the new legal age restriction for e-cigarettes.

## Section 6: About you

**Title (Mr, Mrs, Ms, Dr, Professor):** Ms

**First name:** Julie

**Surname:** Byers

**Email address (optional):** Julie.Byers@acs.org.uk

**In what capacity are you responding? (Required)**

**Other – Please specify.**

Trade Association

**Are you happy for the Department of Health and Social Care to use your email address to send you updates about its policies?**

Yes

**Are you happy for the Department of Health and Social Care to use your email address to send you updates about other Department of Health and Social Care consultations?**

Yes

**About your organisation (if relevant)**

**Name of organisation:**

Association of Convenience Stores

**Type of business / organisation:**

Trade Association