



**NFRN**  
*The voice of the independent retailer*

## **Submission from the NFRN to the National Assembly for Wales' Health and Social Care Committee's consultation on the Public Health (Wales) Bill**

### **Introduction**

The National Federation of Retail Newsagents (NFRN) would like to thank the National Assembly for Wales' Health and Social Care Committee for the opportunity to present the views of its members on the Public Health (Wales) Bill, in particular on the issue of tobacco and nicotine products.

The NFRN is one of Europe's largest employer's associations, representing over 15,000 independent retailers across the British Isles. We are a membership led organisation that assists the independent retailer to compete more effectively in today's highly competitive market, as well as representing members' interests at governmental and parliamentary level.

### **Summary**

The NFRN believes the proposals on tobacco and nicotine products, put forward by the government, are laudable but ill conceived. We urge the government to look more closely at the benefits of e-cigarettes to smokers trying to quit. We also call on the government to tackle the illicit tobacco market, something we feel the retailers' register will not achieve in its current form.

### **Response**

#### **Part 2: Tobacco and Nicotine Products**

##### **Question 1: Do you agree that the use of e-cigarettes should be banned in enclosed public and work places in Wales, as is currently the case for smoking tobacco?**

The NFRN does not support a ban on the use of e-cigarettes in enclosed public spaces and work places. This is because we consider that e-cigarettes offer those who smoke tobacco an alternative which is more preferable for their health.

In support of this, a recent report from Public Health England<sup>1</sup> (PHE) found that e-cigarettes are approximately 95 per cent less harmful to health than smoking. The PHE report states that whilst e-cigarettes are not free from risk for their users, they have the potential to contribute to the end of tobacco use completely, particularly as the large majority of users are current or former conventional smokers, as opposed to being used by those who have not smoked before. This is in line with the MHRA's findings, with evidence suggesting that much e-cigarette use is to support stop smoking attempts or for partial replacement to reduce harm associated with regular tobacco smoking<sup>2</sup>.

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<sup>1</sup> <https://www.gov.uk/government/publications/e-cigarettes-an-evidence-update>

<sup>2</sup> <http://webarchive.nationalarchives.gov.uk/20141205150130/http://www.mhra.gov.uk/Safetyinformation/Generalsafetyinformationandadvice/Product-specificinformationandadvice/Product-specificinformationandadvice%E2%80%93M%E2%80%93T/NicotineContainingProducts/index.htm>

The PHE report also found that e-cigarettes release negligible levels of nicotine into ambient air, therefore causing no identifiable health risks to bystanders. The NFRN supports evidence based policy making and feels that, in light of the findings of the PHE report, it would be an error on the government's part to not continue to allow the use of e-cigarettes in enclosed public and work spaces.

The 2013 Welsh Health Survey reported that 72 per cent of smokers would like to give up, and 41 per cent had tried to give up in the last year<sup>3</sup>. By banning the use of e-cigarettes in enclosed public spaces, these products will be denied the opportunity to be used as cessation devices. We encourage the government to reconsider this proposal and recognise the usefulness of these products in efforts to tackle the prevalence of tobacco smokers.

Nonetheless, the NFRN does believe that non-smokers and non-vapers should be respected. As such, we believe the government should encourage a compromise on the use of e-cigarettes in enclosed public and work places, through the use of designated vaping areas within these enclosed areas.

**Question 3: Do you believe the provisions in the Bill will achieve a balance between the potential benefits to smokers wishing to quit with any potential disbenefits related to the use of e-cigarettes?**

As detailed in our answer to question 1, the NFRN does not feel that these provisions are based on evidence. Until evidence is made available that finds results other than those stated in the PHE report, we feel that the proposed ban is too repressive and will hinder those smokers trying to quit by using e-cigarettes.

**Question 4: Do you have any views on whether the use of e-cigarettes renormalizes smoking behaviours in smoke-free areas, and whether, given their appearance in replicating cigarettes, inadvertently promote smoking?**

We would urge the government to adopt another term to refer to e-cigarettes. This will help to distinguish them from tobacco products and raise awareness that they are a useful tool for those trying to quit smoking.

**Question 5: Do you have any views on whether e-cigarettes are particularly appealing to young people and could lead to a greater uptake of their use among this age group, and which may ultimately lead to smoking tobacco products?**

Our members have informed us that it is their experience that young people are not attempting to buy these products in large numbers, despite currently being legal to do so.

As responsible retailers our members act as the barrier between young people and these products, and continue to prevent the sale of e-cigarettes to them to protect them ahead of the introduction of the age restriction later this year.

**Question 7: Do you have any views on the level of fines to be imposed on a person guilty of offences listed under this Part?**

The NFRN considers it important that any level of fine imposed is reviewed in future, to ensure it continues to act as a deterrent.

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<sup>3</sup> <http://gov.wales/statistics-and-research/welsh-health-survey/?lang=en>

**Question 8: Do you agree with the proposal to establish a national register of retailers of tobacco and nicotine products?**

In principle the NFRN supports the establishment of a national register of tobacco and nicotine retailers. However, we continue to express our concerns about the exact register being proposed by the Welsh Government for the reasons set out below.

Firstly, the register is dependent on the retailer actively registering. Consequently, our members feel that it is targeting them as responsible retailers. We believe that those retailers that are not selling age restricted products responsibly will avoid joining the register.

The NFRN would like to know how the government proposes the register will overcome this problem.

Secondly, as there is a cost to apply to register we feel that it is equating to a tax on responsible retailers who will feel compelled to join the register to prove they are law abiding.

The NFRN believes that responsible retailers should not have to pay to join a register stating they are selling tobacco and related products responsibly. We argue that Trading Standards departments should be aware of those retailers in their area that sell tobacco and a centralised list will do nothing to tackle the problems the government proposes the register will alleviate.

Thirdly, following a conversation with the Welsh Government we are concerned that Trading Standards departments have little intention of using the register for tackling illicit suppliers of these products any more than they currently do. Rather, the register will assist them in focussing on law abiding retailers.

The NFRN would like to see more effort focussed on tackling the illicit tobacco trade which adversely affects our members' businesses. As NFRN members already work with their local authorities to report suspicious activity, they feel that this register will do little to address their concerns.

**Question 9: Do you believe the establishment of a register will help protect under 18s from accessing tobacco and nicotine products?**

The NFRN does not believe that the establishment of a register of tobacco and nicotine retailers will provide any more protection to under 18s who are trying to access these products.

We strongly believe that those retailers that are irresponsibly selling these products to under 18s will not be signing up to this register and will continue to supply these products to those under the age restriction. The responsible retailers that will join this register are already conducting age verification checks and are striving to ensure that young people under 18 are not able to access these products from their premise.

**Question 10: Do you believe a strengthened Restricted Premises Order regime, with a national register, will aid local authorities in enforcing tobacco and nicotine offences?**

Whilst a strengthened restricted premise order regime will allow local authorities the opportunity to enforce offences relating to tobacco and nicotine products, and could work in conjunction with a national tobacco retailers' register, we fail to understand why the register is required for this and why a restricted premise order regime could not function on its own to tackle offenders.

**Question 11: What are your views on creating a new offence for knowingly handing over tobacco and nicotine products to a person under 18, which is the legal age of sale in Wales?**

The NFRN supports the creation of a new offence for retailers that knowingly sell tobacco and nicotine products to a person under 18 years old and throughout this response are urging the government to do more to tackle these offenders.

**Question 12: Do you believe the proposals relating to tobacco and nicotine products contained in the Bill will contribute to improving public health in Wales?**

The NFRN does not feel that the proposals within the Public Health Wales Bill will contribute towards improving public health in Wales.

This is because e-cigarettes are a useful tool for smokers trying to quit. They have been found by PHE to be up to 95 per cent less harmful than smoking, with their use primarily prevalent amongst current and former smokers. Consequently, the NFRN cannot sympathise with the government's efforts to restrict their use in enclosed public spaces, as they would be forcing those who use e-cigarettes for cessation purposes to vape in the same area as traditional smokers, challenging them in their attempts to quit.

We also consider that the tobacco register will not stop irresponsible retailers from selling tobacco and nicotine products to under 18s and call on the government to redirect their efforts towards tackling these retailers and the illicit market, something we feel the register will not achieve.

**Finance questions**

**Question 1: What are your views on the costs and benefits of implementing the Bill? (You may want to look at the overall costs and benefits of the Bill or those of individual sections.)**

The creation of a tobacco retailers' register is estimated to cost responsible retailers throughout Wales nearly £286,000 in the first year alone, yet the NFRN is not convinced that it will have the desired results. In comparison, the illicit tobacco market throughout the UK is estimated to cost the Treasury £1.3 billion a year<sup>4</sup> and needs to be addressed.

**Question 3: What financial impact will the Bill's proposals have on you/your organisation?**

The cost of registering on the tobacco retailers' register will have a substantial impact on our members' businesses.

Our members have provided the following example to explain this impact.

Cost of 20 packet of cigarettes = £6.99  
Flat rate tax paid to government = £3.79  
16.5% of sale price in tax paid to government = £1.15  
VAT @ 20% paid to government = 1.39  
Total paid to government = £6.34  
Retailer is left with 34p, of which 7p is paid in VAT to government  
Total retailer profit = 27p

<sup>4</sup> [http://www.theretailbulletin.com/news/summit\\_calls\\_for\\_counterfeit\\_crackdown\\_18-02-14/](http://www.theretailbulletin.com/news/summit_calls_for_counterfeit_crackdown_18-02-14/)

To afford the £30 charge to register, a retailer would have to sell 111 packets of cigarettes, or take £775.89 in sales.

It is clear from these figures that whilst £30 may not seem a significant sum, to an independent retailer it involves a great deal of hard work and eats into their already small profit margins. The charge to register could see many independent retailers have to close their shop, particularly when taking into account the upcoming introduction of the National Living Wage and the additional cost and impact this will have.

**Question 4: Are there any other ways that the aims of the Bill could be met in a more cost-effective way than the approaches taken in the Bill's proposals?**

The NFRN believes that by removing the plans for the register from the Bill entirely and focussing more effort on the illicit tobacco market, including working with responsible retailers, the government and local authorities would have greater success in tackling these issues.

**Question 5: Do you consider that the additional costs of the Bill's proposals to businesses, local authorities, community councils and local health boards are reasonable and proportionate?**

The NFRN does not consider the costs of the Bill's proposals to be reasonable and proportionate. This is because the register will focus on responsible retailers, rather than addressing the issue of the illicit tobacco market. Currently our members feel they will pay to join the register to ensure Trading Standards departments know where they are and what business they are conducting, yet it has not set out how it will address those retailers that do not register and are not selling these products responsibly, or worse still, are selling illicit versions of these products.

**Other comments**

**Question 2: Do you believe that the issues included in this Bill reflect the priorities for improving public health in Wales?**

No, the Bill does not address tackling the illicit tobacco market or plans to improve education on the dangers of using tobacco and nicotine products amongst the public.

**Question 3: Are there any other areas of public health which you believe require legislation to help improve the health of people in Wales?**

Yes, the government needs to improve education and thus awareness of the dangers of using tobacco and nicotine products amongst the public. However, we argue that the government also needs to raise awareness of the dangers of illicit products. ASH Wales' recent report<sup>5</sup> found that the illicit market share in Wales has reached 15 per cent of the total market, with a quarter of current smokers purchasing illicit products. This is particularly concerning because these products can be much more dangerous to a person's health than legitimate tobacco products, with many found to contain asbestos and human excrement, as well as increased levels of toxic ingredients such as tar, nicotine, carbon monoxide, lead, cadmium and arsenic<sup>6</sup>.

**Contact**

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<sup>5</sup> <http://ashwales.org.uk/assets/factsheets-leaflets/illegal-tobacco-report-v4.pdf>

<sup>6</sup> [http://www.local.gov.uk/media-releases/-/journal\\_content/56/10180/6464176/NEWS](http://www.local.gov.uk/media-releases/-/journal_content/56/10180/6464176/NEWS)