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E-cigarettes in the workplace: a guide

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The use of electronic cigarettes, or “vaping” as it is often described, has grown quickly in the past five years and about 2.8 million adults in Great Britain now “vape”.

The vast majority of these are smokers or ex-smokers, but concerns remain about whether or not vaping might normalise smoking, particularly among young people.

The rapid growth in e-cigarette use is an issue for the workplace, and employers need to consider its impact on both existing smoking policies and cessation programmes.

This guide covers the following:

- The growth of vaping and the evidence around its safety and other risks.
- Employer policies on the use of e-cigarettes in the workplace, including guidance from Acas, the Health and Safety Executive and Public Health England.
- The role of e-cigarettes in cessation programmes and wider employee wellbeing.
- The regulatory framework covering e-cigarettes, including a new EU Tobacco Products Directive and recent case law.
- The potential for regulatory changes in the future.
- E-cigarettes: a potted history.

Vaping in the workplace: a guide

In this good practice guide to electronic cigarettes in the workplace, **Sarah Silcox** looks at the evidence on vaping, policy and practice, and the legal considerations.



Electronic cigarettes deliver nicotine by heating and vaporising a solution containing the nicotine itself plus propylene glycol and flavours. Nothing is burned during the process so there is no harmful by-product such as tar or carbon monoxide.

The first e-cigarette was developed by a Chinese company in 2004, and devices first appeared on the UK market a few years later.

Most consist of a battery, a chamber where the vaporising takes place and some method for storing the e-cigarette liquid – for example, it can be contained in a sealed cartridge, added to a tank system or combined with the vaporising system in a single “cartomiser” unit.

Vaping technology has developed quickly since the first generation of e-cigarettes, which were designed to look like traditional cigarettes. The latest third generation allow users to control the voltage applied to the atomiser and there is even a downloadable app so that vapers can monitor their usage (National Centre for Smoking Cessation and Training, 2014).

Is vaping safe?

There is consensus that, while not risk free, e-cigarettes carry a fraction of the dangers of tobacco. An independent review of the latest evidence published by Public Health England in 2015 concludes that vaping is about 95% safer than smoking.

The authors of the report point out that this is largely due to the fact that the harmful constituents of cigarette smoke, including carcinogens, are either absent in e-cigarette vapour or, if present, are mostly at levels below safety limits for occupational exposure. In addition, the main chemicals present in e-cigarettes alone have not been associated with any serious health risks.

Some concerns have been expressed about the safety of the actual product and there is evidence that they can be a fire risk, particularly when being recharged. As a result, the Chief Fire Officers’ Association include e-cigarettes in its wider advice on all rechargeable devices.

In addition to concerns about safety, there is also continuing controversy about the potential for the widespread use of vaping to normalise other smoking behaviour, reversing public health gains achieved as a result of the banning of tobacco smoking in public places.

This is particularly relevant for some workplace settings, including schools and hospitals, and is a factor that employers should consider when developing policies.

Producing a workplace policy

Public Health England (PHE) published framework advice for businesses and employers on creating a policy on the use of e-cigarettes in July 2016.

The framework is designed to help employers create policies that both support smokers to quit and the organisation to stay smoke free. It acknowledges that work settings vary and that different employers will have specific considerations, setting out five principles for policies based on current understanding of the risks (see box, right).

As e-cigarettes fall outside the scope of existing smoke-free legislation, it is down to employers whether or not to allow employees to smoke them at work. Organisations may decide to allow, or even support, vaping as growing numbers of workers use it as part of a plan to stop or reduce smoking.

However, it is important to also recognise that the vapour from e-cigarettes might irritate or annoy others and potentially be a health risk through passive consumption, there being no evidence on its long-term effects yet. For example, people with asthma and other respiratory conditions can be sensitive to a range of environmental irritants, including e-cigarette vapour, and their interests need to be taken into account when developing workplace policy.

Also, there may be commercial and reputational reasons for restricting vaping to particular parts of a workplace – for example, away from customer-facing areas.

Further, there is the potential for other employees and the public to mistake vaping for tobacco smoking (although less so with third-generation devices) and to believe that real cigarettes are being smoked.

Acas advises employers to make it a rule that line manager approval is needed to smoke e-cigarettes in the workplace, but stops short of recommending a ban: “There may be a concern that preventing the use of e-cigarettes may hinder those who use them to stop smoking, particularly if they are required to smoke them in designated smoking areas together with cigarette smokers. Employers may want to consider organising a separate e-cigarette smoking area external to work premises.”

Employers should also have clear rules on vaping at work, perhaps incorporating these into an existing smoking policy, Acas suggests. It stresses that any new workplace rules should be discussed with all employees to ensure they are understood.

Acas also suggests employers consider setting out rules on vaping breaks, making it clear in any rules that unauthorised or excessive e-smoking breaks could result in disciplinary action.

The Health and Safety Executive (HSE) and the Chartered Institute of Personnel and Development (CIPD) also caution against workplace bans on e-cigarettes. HSE’s advice is that “an employer needs to consider e-cigarettes in the wider context of risk in the workplace. We are aware that some organisations have banned their use, but this is not something HSE has advised on.”

In its guidance, PHE stresses that organisations should make clear to employees the distinction between vaping and smoking, and not to use smoking terminology when referring to e-cigarettes – for example, by referring to “vaping” not “smoking”.

Vaping and smoking cessation

E-cigarettes are the most popular smoking cessation aid in England, and the evidence is building for their effectiveness. Recent studies show that vaping can help people quit or reduce cigarette smoking, but also encourage those not even thinking about quitting to consider it.

There is less evidence about whether or not vaping is more or less effective than licensed smoking cessation medications, but because it is more popular, it does provide

E-CIGARETTES IN PUBLIC PLACES AND WORKPLACES: A 5-POINT GUIDE TO POLICYMAKING

Public Health England published guidance for organisations looking to develop policies on the use of e-cigarettes in the workplace in summer 2016. The five points are:

1. Make a clear distinction between vaping and smoking

E-cigarette use does not meet the legal or clinical definitions of smoking. Furthermore, international peer-reviewed evidence suggests that e-cigarettes carry a fraction of the risk of cigarettes and have the potential to help drive down smoking rates, de-normalise smoking and improve public health. So policies need to be clear on the differences between vaping and smoking.

2. Ensure policies are based on evidence of harm to bystanders

The evidence of harm from second-hand smoke is conclusive and provides the basis for UK smoke-free laws. In contrast, international, peer-reviewed evidence indicates that the risk to the health of bystanders from second-hand e-cigarette vapour is extremely low and insufficient to justify prohibiting e-cigarettes. This evidence should inform risk assessments.

3. Identify and manage risks of uptake by children and young people

E-cigarette use is not recommended for young people and this is reflected in the UK’s age of sale and advertising restrictions. However,

because adult smokers use e-cigarettes to quit smoking and stay smoke free, the products can help reduce children’s and young people’s exposure to second-hand smoke and smoking role models. In developing policies for child and youth settings, guarding against potential youth uptake should be balanced with fostering an environment where it is easier for adults not to smoke.

4. Support smokers to stop smoking and stay smoke free

E-cigarettes are used almost exclusively by smokers and ex-smokers and are now the most popular stop-smoking aid in England. To help smokers to stop smoking and stay smoke free, a more enabling approach to vaping may be appropriate to make it an easier choice than smoking. In particular, vapers should not be required to use the same space as smokers, as this could undermine their ability to quit and stay smoke free.

5. Support compliance with smoke-free law and policies

Maintain and support compliance with smoke-free requirements by emphasising a clear distinction between smoking and vaping. Indicate accurately where vaping is permitted or prohibited, and communicate the policy clearly to everyone it affects.

Source: “E-cigarettes in public places and workplaces: a 5-point guide to policy making”, Public Health England.



an opportunity to increase the number of people stopping smoking (Public Health England, 2015).

The emerging evidence on the efficacy of vaping should be at the centre of workplace policies, according to the PHE advice on the use of e-cigarettes in public places and workplaces. It suggests that, while e-cigarettes are not currently available as licensed medicines, it is expected that products will come on to the market that can be prescribed on the NHS by health professionals alongside other stop-smoking medicines.

Occupational health practitioners have an important role to play in shaping non-smoking policies in their organisations, according to the Faculty of Occupational Medicine.

“They should be aware of the new PHE guidance and decide how best this should be reflected in their local policy, depending on the particular employment setting”.

The Faculty continues: “The five principles in the PHE guidance articulate the need to distinguish clearly between smoking and vaping, and to strike a balance between enabling e-cigarette use to help smokers to cut down and stop, while avoiding any encouragement of uptake of e-cigarettes among non-smokers [especially young people]”.

The regulatory framework

E-cigarettes are not covered by UK smoke-free legislation because they are not lit and no burning takes place.

A number of countries have decided that, because they contain nicotine, e-cigarettes should fall under the same regulatory regime as medicines.

However, the European Parliament rejected a proposal to license all electronic cigarettes as medicines in 2013 and instead went down the route of incorporating the devices in a new directive on tobacco products, which came into force in May 2016.

The new Tobacco Products Directive introduces safety and quality requirements

on all e-cigarettes containing nicotine. For example, it sets maximum nicotine concentrations and volumes for cartridges, tanks and containers, and also requires that all devices should be child-resistant and tamper proof. Health warnings are now mandatory, and devices must state that the product contains nicotine and should not be used by non-smokers.

The Directive covers the packaging and labelling of e-cigarettes and also requires manufacturers to report annually on sales volumes and consumption trends.

Case law

Insley v Accent Catering is the first tribunal decision to address the issue of an employee's use of e-cigarettes in the workplace.

Ms Insley worked as a catering assistant at a school and was seen vaping by the head teacher, who made it clear that the school considered this a gross misconduct offence, despite the fact that its policy did not explicitly prohibit the use of e-cigarettes.

Ms Insley was asked to attend a disciplinary hearing, but resigned before this took place, claiming constructive dismissal.

Although the tribunal held that the employer had “reasonable and proper cause” for all its actions, it was not clear that Ms Insley had breached any policy, adding that this was a “point of concern”.

A CIPD comment on the case suggests that if employers choose to restrict, rather than ban, vaping, it is advisable to introduce a clear usage policy.

Future regulatory framework

The British Medical Association (BMA) continues to argue that the regulatory framework surrounding vaping needs strengthening (BMA, 2012).

It believes treating e-cigarettes as a licensed medicinal product best reflects their use in smoking cessation and would also ensure their quality and safety.

NO SMOKE... E-cigarettes are not covered by UK smoke-free legislation because they are not lit and no burning takes place.

Doctors also believe that vaping should be prohibited in public places where tobacco smoking is currently banned, arguing that such an approach is supported by the World Health Organisation, the American Heart Association and the Forum of International Respiratory Societies.

As an interim measure, the BMA calls on employers to ban vaping as part of smoke-free workplace policies, and encourages “supporting employees to use smoking cessation services”.

Meanwhile, a proposal to ban vaping in certain public places in Wales has been dropped by the Welsh Assembly.

The First Minister confirmed in May 2016 that a proposed ban on e-cigarettes in certain public places contained in a previous health Bill, which was defeated, will not be reintroduced in a new legislation.

References

- ▶ Acas. “E-cigarettes in the workplace”. Advice and guidance.
- ▶ ASH (2014). “Developing an organisational approach to the use of electronic cigarettes on your premises”.
- ▶ ASH/CIEH. “Will you permit or prohibit e-cigarette use on your premises?”. ASH/CIEH briefing.
- ▶ BMA (2012). “BMA calls for strong regulation of e-cigarettes: a briefing from the BMA's Board of Science and Occupational Medicine Committee”. Updated in November 2014.
- ▶ HSE advice on smoking at work.
- ▶ McNeill A et al (2015). “E-cigarettes – an evidence update: a report commissioned by Public Health England”. PHE.
- ▶ McRobbie H (2014). “Electronic cigarettes”. National Centre for Smoking Cessation and Training.
- ▶ Public Health England (2016). “Use of e-cigarettes in public places and workplaces: advice to inform evidence-based policy making”.