

**Submission
No 58**

E-CIGARETTE REGULATION AND COMPLIANCE IN NEW SOUTH WALES

Organisation: Office of the Advocate for Children and Young People

Date Received: 17 November 2023

Law and Safety Committee
Legislative Assembly
Parliament House
Macquarie Street
SYDNEY NSW 2000

via email: lawsafety@parliament.nsw.gov.au

16 November, 2023

Dear Committee,

Thank you for the opportunity for the NSW Advocate for Children and Young People (ACYP) to provide feedback on E-Cigarette Regulation and Compliance in NSW.

Established under the *Advocate for Children and Young People Act 2014*, the Advocate for Children and Young People is an independent statutory appointment overseen by the Parliamentary Joint Committee on Children and Young People. ACYP advocates for the safety, welfare and well-being of children and young people aged 0-24 years and promotes their participation in decisions that affect their lives. The Act requires ACYP to 'give priority to the interests and needs of vulnerable and disadvantaged children and young people' and to 'focus on systemic issues affecting children and young people'. Further information about ACYP's work can be found at: www.acyp.nsw.gov.au.

E-cigarette use amongst children and young people has been a key issue of focus for the Advocate. As a result, the ACYP led innovative research on vaping by conducting consultations with 261 young people aged 13-18 years in face-to-face focus groups of between 4 – 15 young people, between May – June this year.

We have attached a copy of the [ACYP's Vaping Report](#). The aims of the vaping research, which were identified in discussions with NSW Ministry of Health (MoH), the Cancer Institute and the NSW Department of Education (DoE) were to: an opportunity to understand more about what empowers young people to reject vaping, and what cessation tools and supports young people would find helpful and attractive.

Young people who participated in consultations had diverse perceptions about vaping and vaping culture in schools, with the data finding that vaping culture is strongly influenced by peer pressure, used as a stress management tool and there is an alarming misunderstanding of how harmful it can be to your health.

Despite restrictions on trade, young people noted that vapes are easily purchased or accessible through their friends. They also told ACYP that if it was bad for their health, they believed they would already have been banned or more difficult to access.

Young people also noted through consultations that the secrecy around vaping and fear of punishment reduced the likelihood of them reaching out for help to stop vaping. One student told ACYP, "If young people want to quit, it's hard, because you have to do it alone, you can't go to your parents or teachers to talk about it."

ACYP's recommendations for the E-cigarette Regulation and Compliance Inquiry in NSW are as following noting that any changes in NSW regulation and compliance would need to work in tandem with changes in Federal regulation and compliance practices:

For the NSW government:

- Work collaboratively with the Federal Government to phase out the availability of non-nicotine e-cigarette products to end the regulatory loophole.
- Work collaborative with the Federal Department of Health and Aged Care to expand existing legislation related to tobacco advertising to include plain packaging and graphic health warnings to include e-cigarette products.
- Invest in NSW Health inspectors to continue existing enforcement work regarding the illegal sale of e-cigarettes in retail settings and online, and invest in border patrol measures to stop the illegal import of e-cigarettes.
- Local councils should continue to invest in free and accessible recreation programs and spaces to provide young people with positive alternatives to engaging in vaping. This will also act as a diversion away from engaging in alcohol and other drugs, as well as promoting positive community engagement.
- Advertising campaigns should include a variety of different information points to remain fresh and equip young people with a deeper understanding of the health harms of vaping. ACYP welcomes the ongoing commitment to test advertising campaigns with young people.
- Supports for young people should be co-designed with, tested and evaluated by young people.
- Develop a suite of supports, rather than a single approach, to ensure more young people are able to find a support suitable for them.
- Develop an online tool and app with young people that provides factual information and provides supports for cessation.
- Teachers, school counsellors and student support officers should receive material and training about vaping and how to support and help students.
- Universal provision of education about the specific health harms of vaping, should be co-designed with young people, and coupled with advice and referral to supports for both parents and young people.
- Department of Education, Australian Independent Schools NSW, and Catholic Schools NSW should not pursue the use of vape detectors as a method to reduce vaping in schools, given young people indicated they were not a useful approach to prevent young people from taking up vaping or to prevent them from vaping on school grounds.
- Provide training and support to Wellbeing Nurses in schools on how to communicate with young people in schools around quitting vaping, and on where to access Nicotine Replacement Therapy (NRT).
- Widely disseminate the NSW Guide to Support Young People Quit E-Cigarettes and provide updates to pharmacies on providing off-label Nicotine Replacement Therapy as updates are added to the Guide.



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Federal Parliament & Bodies Recommendations:

- As per the current proposed new legislation, the Australian Government Department of Health and Aged Care should expand existing legislation related to tobacco advertising, plain packaging, removing flavours, and graphic health warnings to include e-cigarette products.
- The eSafety Commissioner should prohibit advertising of e-cigarettes. E-cigarettes should be classified as Class 2 material “inappropriate for children and young people under 18 years old” under the Online Safety Act 2021, on social media platforms.
- Reduce the cost of Nicotine Replacement Therapy (NRT) under the PBS for people who are vaping so that it is accessible for children and young people.

Thank you for the opportunity to provide this submission and we look forward to working across government, business and community to implement recommendations.

Kindest regards,



Zoë Robinson

Advocate for Children and Young People
Office of the Advocate for Children and Young People

Attachment included with submission

Office of the Advocate for Children and Young People, "[Vaping can affect your whole life, not just your lungs](#)": Young people's perspectives on vaping in 2023, September 2023