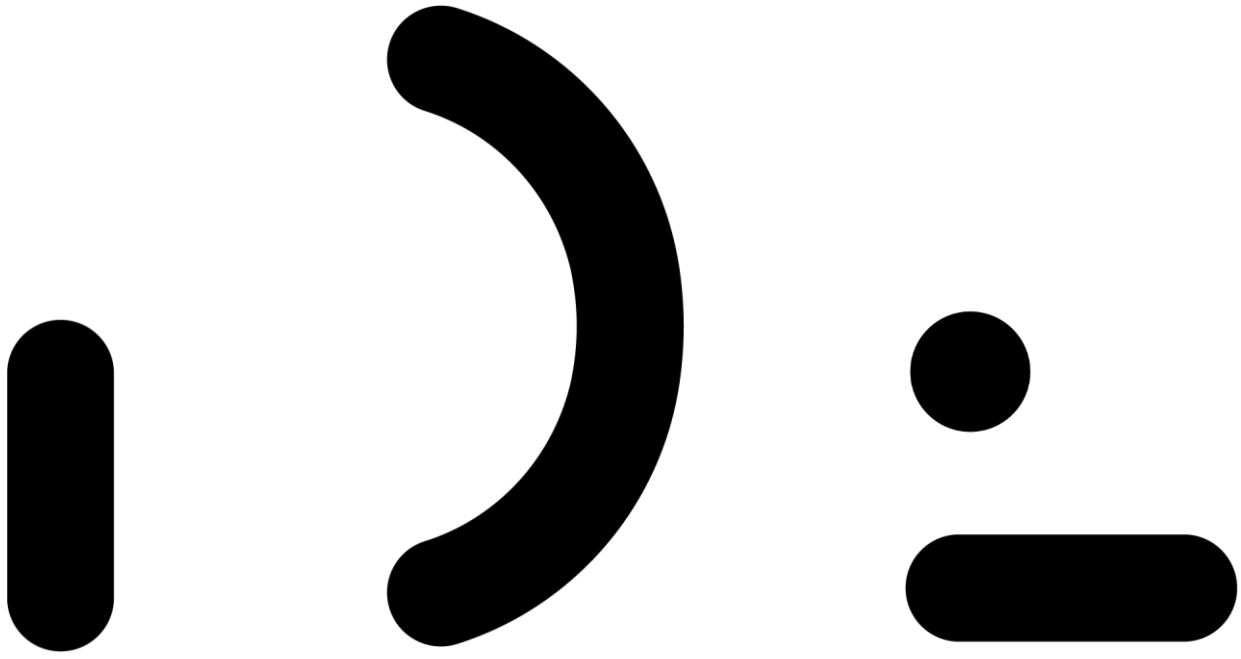


Vaping - An inquiry into reducing rates of e-cigarette use in Queensland

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Inquiry into reducing rates of e-cigarette usage in Queensland

Alcohol and Drug
Foundation Submission

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About the Alcohol and Drug Foundation

The Alcohol and Drug Foundation (ADF) delivers evidence-based approaches to minimise alcohol and other drug harm. We recognise the power of strong communities and the important role they play in preventing problems occurring in the first place. A community-centric approach is at the heart of everything we do.

Executive Summary

The ADF welcomes the opportunity to contribute to the Queensland government's inquiry into reducing the rates of e-cigarette usage in Queensland. The rapid proliferation of vaping in Australia has arisen through international trends of greater e-cigarette use globally, and a regulatory regime that has failed to stop the growth of an illicit market.

The supply of vaping products in Australia is currently structured around a licit supply of nicotine vaping products (NVPs) available legally via prescription from a pharmacy or via importation through the Personal Importation Scheme, and a supply of non-nicotine vaping products (non-NVPs) that are being imported and sold in retail. The supply of unregulated non-NVPs are of significant concern, as a large majority have been found to contain nicotine, and sellers are operating with effective impunity.¹ This submission will refer to 'vaping products' when referring to both NVPs and non-NVPs.

The retail sale of non-NVPs containing nicotine to young people has emerged as a key public health and regulatory challenge. These regulatory issues are federal issues, and outside of the jurisdiction of the states. However, any federal changes to these regulations will have a large impact on the supply of vaping products in Queensland. The federal government has recently responded to the TGA report and announced the banning of the import of all vaping products – NVPs and non-NVPs, as well as the end of the Personal Importation Scheme, and the introduction of further regulation on licit NVPs including restrictions on nicotine content, flavouring, and packaging.

Due to these changes, the supply of vaping products in Queensland will dramatically shift and change the issues to which this Inquiry is responding. Specifically, changes to import regulations will see a significant reduction in the availability of non-NVPs, particularly the disposable products that are being sold at convenience stores and are of most concern with young people. This will additionally make regulation of the supply of NVPs more effective, as they are accessed only via therapeutic pathways. This reform will require additional investment and enforcement from the states, particularly in addressing the retail sales of non-NVPs. It is likely therefore that people who use vaping products regularly and who may be dependent on nicotine may find themselves suddenly unable to access these products and may face rapid withdrawal. This may be further compounded by the fact that many people using non-NVPs are not aware whether or not their devices have nicotine in them, and that they may not be expecting to experience withdrawal. The Queensland government has also recently introduced a positive licensing scheme for tobacco sales which may impact on the sale of illicit NVPs, further contributing to potential rapid changes in supply.

Responses to individual vaping product use should be non-punitive and non-stigmatising, particularly for young people. It is currently a criminal offence in Queensland to possess a NVP without a script, as thousands of young people do every day. The maximum penalty for possessing a schedule 4 substance without authorisation is 200 penalty units – around \$30,000². While this is not currently being enforced, the threat of criminalisation remains. If the supply of vaping products

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changes significantly, those who continue to access products illicitly may be at greater risk of criminal penalty as the behaviour becomes less normalised.

The ADF makes the following recommendations:

1. The Queensland government support the federal government's announced reforms to the supply of vaping products by comprehensive enforcement of the ban of retail sales of vaping products, with access to NVPs via therapeutic pathways
2. The Queensland government invest in targeted public messaging campaigns about upcoming changes to the supply of vaping products
3. Possession of vaping products should be decriminalised, so that people do not face disproportionate criminal penalties for a health issue
4. Support is provided to people who will be impacted by the change in supply of vaping products, including information about nicotine dependence and withdrawal, as well as evidence-based supports like nicotine-replacement therapies and psychosocial support
5. Behaviour change programs for young people regarding vaping are developed using evidence, and are designed to be non-stigmatising

1. The current status in Queensland relating to:

a) Prevalence of e-cigarette use, particularly amongst children and young people

Given the proposed changes by the federal government, it is likely that we will see further change to patterns of use as the reforms are rolled out over the coming months.

Limited data and baselines

Data regarding the prevalence of e-cigarette usage in Australia, particularly among young people, is limited. The highest quality data sets that capture young people's smoking and e-cigarette use behaviours, the National Drug Strategy Household Survey (NDSHS), and the Australian Secondary School Students Alcohol and Drug Survey (ASSAD), have both been delayed by the COVID pandemic and are not likely to report until 2024. The NDSHS last reported in 2019, while ASSAD reported in 2018 using 2017 data. Additionally, both of these surveys reported prior to the significant expansion of vaping products in Australia. They do provide some baseline, however with which to assess the expansion in use. Both are limited by the fact that they do not ask questions about the nicotine content of e-cigarette use.

ASSAD data from 2017 records that 14% of 12- to 17-year-old students had ever used an e-cigarette. There is no data recorded about whether users expected, or were aware, of whether the product had nicotine content. NDSHS data from 2019 reports 9.6% lifetime usage in 14- to 17-year-olds, though notes a small sample size for this population. Whilst the samples have differences, this compares to a national lifetime usage rate of around 47% from data collected in late 2021³.

Data sources

Data from three pieces of research will be presented. Each of these studies has asked different questions of different demographics, though all focus on vaping product use prevalence amongst young people. Only one has data specific to Queensland, and this data should not be considered wholly representative.

*Generation Vape NSW*⁴

Cancer Council NSW conducted a study of 721 young people aged 14-17 in 2021. This occurred prior to the scheduling of nicotine vaping devices as therapeutic goods. Respondents were asked about their awareness of vapes, whether they had used them, their frequency of use, and similar questions about tobacco. They were also asked about product characteristics and how they accessed products.

Of the sample, 32% reported having ever used a vaping product, with 5% reporting having used a vaping product within the last 30 days. Of those who had vaped, 54% reported having never smoked before vaping.

52% of the sample reported using a disposable vape, while 34% did not specify the details. Only a small number (3%) reported using a refillable vape, or one that could be reused with pods (3%). Regarding nicotine content, 53% reported having knowingly used a nicotine vape, while 20% stated that they had not used a nicotine vape, while 27% were uncertain.

30% of respondents reported purchasing their last vape. Of these 49% purchased from a friend, 31% from a retailer, 9% from social media, and 7% from a website. Of the 70% who did not purchase their last vape, 80% reported accessing from friends, and 8% from siblings.

SA Commissioner for Children and Young People Vaping Survey⁵

The SA CCYP commissioned a report into vaping use amongst teenagers in South Australia in June 2022. A total of 960 young people aged 13-19 responded to the survey.

Of the respondents, 2 in 3 reported having tried vaping. Of those who had tried vaping, 1 in 4 described themselves as a regular vaper (vaping most days), which equates to roughly 16.6% of the sample. A further 1 in 5 described themselves as a social vaper. Young people reported learning either “nothing at all” (48.5%) about vaping at school, “not much” (34.7%), “a fair bit” (13.1%), or “a lot” (3.7%).

Pettigrew et al. 2023³

A nationally representative sample of 1,006 young people aged 15-30 completed an online survey, answering questions about e-cigarette use, access, and perceptions. Non-representative unpublished data is available for Queensland from this sample, provided by the authors to the ADF.

Nationally, the study found 14% of the sample reporting being a current user of e-cigarettes, and a further 33% had used them but were not current users, meaning 47% of the sample had ever tried them. For respondents aged 15-17, 10% of the sample reported being current e-cigarette users, and another 10% had tried them, meaning 20% of that age range had ever used an e-cigarette. A higher proportion of younger users reported using disposable devices (80% of 15–21-year-olds), compared to 19% of 22–30-year-olds. Only 7% of respondents who vaped accessed vapes via prescription.

Data from the QLD sample must be understood as not fully representative but provides some jurisdiction specific insights. Of the sample of 161 respondents in QLD, 49.1% reported having ever used an e-cigarette, compared to 47% nationally. Of the 71 aged 15-21-years old, 47.9% had ever used an e-cigarette.

Nicotine content

Due to the regulatory situation in Australia, the nicotine content of many illicitly purchased vaping products is unknown to researchers and users. This is particularly true for younger people who are

more likely to acquire vaping products from peers and are more likely to use disposable vaping products that are illicitly imported. Some research attempts to address this but is limited to asking individuals whether they believe that the product has nicotine in it, with the study finding that 53% believed their products contained nicotine, 27% did not know, and 20% believed the product they used hadn't contained nicotine.⁴ The TGA has tested a large quantity of illicit disposable vaping products for nicotine content, and 264 of the 314 products tested contained nicotine¹.

a) Risks of vaping harmful chemicals, including nicotine, to individuals, communities, and the health system; and

There is much debate about the health risks of using e-cigarettes, though there is consensus that long-term evidence about the health risks is currently lacking. The health risks relate to the effects of vapour on the lungs and other tissues, as well as the effects of specific chemicals.

Risks to the individual of vaping

Evidence concerning the impacts of vaping to the individual is mixed. In 2022 a review by Public Health England stated that NVPs 'pose a small fraction of the risk of smoking', however this has been widely challenged by public health actors⁶. Public health and tobacco control advocates argue that vaping poses risks through damage to the lungs due to inhalation of harmful chemicals, the risk of nicotine dependence, dual use of NVPs and cigarettes, and the risks of initiation into smoking for young people using vapes. Long term health impact data is not yet available for NVPs, making quantifying their health risks challenging. A January 2022 Cochrane review found moderate-certainty evidence that NVPs expose users to less toxicants/carcinogens compared to tobacco products, and a further review in November 2022 identified high-certainty evidence that NVPs increase smoking quit rates compared to NRT.^{7, 8} In February 2022 the NHMRC stated that NVPs are not proven safe or effective smoking cessation aids, and further research is needed to establish harms and benefits.⁹ There is evidence to suggest people who use NVPs are three times more likely to smoke in their lifetime.^{10, 11}

Harmful chemicals

The TGA currently regulates the content of NVPs that are available via prescription in Australia under the regulation TGO 110. The ADF is supportive of already banned ingredients listed in TGO 110, particularly a-tocopheryl acetate which has been associated with Acute Parenchymal Lung Injury (APLI). Ongoing surveillance and research are required to identify further potentially harmful ingredients in NVPs. The ADF recommends the TGA consider banning caffeine and taurine from NVPs as has been introduced in the UK, as these substances may increase risk of dependence and don't add to therapeutic benefit.

In the current largely unregulated market, there is no ability for government to control the content of non-NVPs. Testing by the TGA has found many illicit disposable vaping products containing products that are currently banned under TGO 110.

Nicotine

The risk of physical harms associated with nicotine itself are less significant than of other harmful chemicals in tobacco and e-cigarettes. Nicotine is a mild central nervous system stimulant that can cause physical symptoms including hypertension, and increased heart rate¹². There is a risk of poisoning when significant amounts of nicotine are consumed. Symptoms of poisoning include headache, nausea, and abnormal heart rate. This is a concern as nicotine content can be high in unregulated disposable products preferred by young people³. Additionally, this may also be a

concern where liquid containing nicotine for reusable vapes is inappropriately packaged or stored where it may be accessible to children.

Notwithstanding, poisoning risks are of less concern than the other harmful chemicals in cigarettes, or those sometimes found in unregulated vaping products. The main relevant risk of nicotine use is the potential for individuals to develop significant dependence on the substance. Nicotine dependence via cigarettes is well documented and understood. Nicotine dependence due to e-cigarette use will parallel much of our understanding of nicotine dependence due to cigarette use, with the difference that the nicotine content of vaping products containing nicotine, particularly in Australia's largely unregulated market, is less consistent. Many unregulated vaping products in fact have a relatively much higher nicotine content than cigarettes¹.

The risk of young people who use vaping products developing a nicotine dependence may therefore be higher than for cigarettes, as the nicotine content of these products can be much higher than in cigarettes, and the frequency of use can also be higher when compared to cigarettes. This means a person using a vaping product may be knowingly or unknowingly exposed to higher levels of nicotine and more at risk of dependence. This is of particular concern if the supply of vaping products is suddenly disrupted, as young people who are dependent may withdraw from significant nicotine dependencies without being fully aware of their dependence or the consequences of such.

b) Approaches being taken in Queensland schools and other settings relevant to children and young people to discourage uptake and use of e-cigarettes.

It is important to note that existing programs to discourage uptake and use of e-cigarettes in Queensland schools will be significantly impacted by changes to the supply of vaping products. While current programs and approaches are taking place within a context of high availability of vaping products, it may be the case that these products are far less available, if at all, in the future. As such, any responses to vaping in young people will need to respond to the changed context of availability and peer use.

Public data relating to approaches being currently taken in Queensland schools is limited, though news articles reveal that suspensions due to substance use have more than doubled in the past five years, driven by vaping¹³. Experience in prevention and early intervention for alcohol and other drug use shows that disciplinary responses to vaping carry the risk of alienating young people and making them less likely to seek help.

The implementation of vape detectors in school is one such disciplinary approach that carries the risk of causing further harms to young people. Evidence from young people shows that use of vaping products can relate to a range of factors, including socialising with peers, and experimentation⁴. Disciplinary actions resulting from the presence of vape detectors may serve to lead children away from support. Experience with alcohol and other drugs demonstrates that stigma is a significant barrier to help-seeking, and that treating substance use or vaping through a disciplinary lens can create and reinforce stigma. Stigma has a material impact on individuals' help seeking, and can delay or prevent individuals from seeking assistance for health issues.

Further to this, disciplinary action that results in an individual being suspended or removed from school activities may play a role in exacerbating risk factors that a young person may be experiencing. If a young person is experiencing risk factors that are associated with greater likelihood of uptake of vaping or tobacco, suspension from school is likely to exacerbate those risk factors by removing the protective factors of school (e.g., social connection, education, peer and teacher support etc.) and reinforcing risk factors (e.g. isolation, shame, stigma, risk-taking behaviours). Additionally, penalties to young people who are found in possession of nicotine products in contravention of the law may face civil or criminal penalties. These penalties and

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criminalisation may further exacerbate risk factors for young people by increasing financial strain, stigma, and isolation. It is vital that young people who are found to be vaping are therefore offered non-stigmatising and non-punitive responses that do not lead to further harms.

Blurred Minds is an initiative lead by Griffith University's social marketing team that delivers drug and alcohol programs to young people. Recently these programs have been extended to include vaping¹⁴. These programs are co-designed with young people using social research and behaviour change techniques, to deliver relevant and evidence-based interventions with young people aimed at reducing the harms of vaping and alcohol and other drug use.

b) Opportunities to increase:

- a. **Awareness of the harmful effects of e-cigarette use (with and without nicotine) to an individual's health, and the effectiveness of preventative activities; and**

Education in schools

Evidence demonstrates that education for young people around substance use that uses a prohibitionist or abstinence based lens is ineffective.¹⁵ Instead, programs that look holistically at the contexts of substance use amongst young people have been proven to be more effective.¹⁶ Approaches to behaviour change programs for vaping must use the learnings of these programs in their approach. Messaging that is based around prohibition (e.g., "just say no") has been found to be not only ineffective but can play a role in increasing stigma around an individual's substance use. Instead, evidence around school education programs suggests that a combination of social competence programs which teach individuals self-management and personal and social skills to respond in complex situations, including those involving substances, and social influence approaches which provide context to substance use, as well as recognising peer and media influences¹⁷.

Risk and protective factors

School environments have an important role to play in reinforcing protective factors and mitigating risk factors for young people with regards to substance use, including vaping and tobacco use¹⁸. Examples of risk factors include individual factors including isolation, difficulties in home life, and trauma, as well as environmental factors like social pressure, social disadvantage, and availability of drugs, alcohol, and tobacco and vaping products. The recently announced federal government reforms therefore play an important role in mitigating some environmental risk factors, but school settings are able to mitigate many of these other factors through positive social environments, and reinforcement of protective factors. Relevant protective factors include social and emotional competence, problem-solving skills, positive family environments, pro-social environments outside of home, and participation and engagement in meaningful activities.

Approaches for parents

A key opportunity in addressing rates of vaping amongst young people is through conversations between children and parents. The ADF has undertaken a process of developing information that is targeted at parents to help them have conversations with their children about drugs and alcohol, as well as specifically targeted at vaping. These resources were developed through an innovative social listening process that used large amounts of data from social media to understand the conversations that were being had about alcohol and other drugs. From this, the ADF used key insights to develop a specific [set of resources for parents about vaping](#) and young people, and Alcohol and Drug Foundation — Inquiry into reducing rates of e-cigarette usage in Queensland — adf.org.au

also have recently developed and launched a new resource for parents called [Talk About It](#), which is designed to help parents have constructive conversations with their children about substance use.

These resources provide strong examples of the kinds of evidence-based material that can be deployed to assist parents, schools, and young people, particularly as the supply of vaping products changes in the coming months.

Penalties for possession

It is also important that information provided to people includes information about the consequences of use of vaping products containing nicotine, particularly after the changes to supply come into effect. It is important for it to be communicated to people that possession of a schedule 4 substance without a prescription is a criminal offence, and in QLD this is punishable by a fine of up to \$30,000. The ADF does not support the criminalisation of personal use and possession of psychoactive substances, and instead supports people who are detected with psychoactive substances being offered voluntary referrals to health supports. The ADF supports a similar approach to the possession of vaping products containing nicotine. While the criminal penalties are not currently being enforced, this may change when availability of vaping products changes. As such, the ADF supports the decriminalisation of possession of vaping products containing nicotine, to ensure that people found with these products outside of licit channels are offered support, rather than criminalised. A criminal justice approach is an ineffective response to a health issue and will likely cause greater harm.

Holistic approaches

Public health and behaviour change campaigns can have profound impacts on community health and wellbeing. However, advertising campaigns on their own do not work. Effective health promotion initiatives are those that are multi-layered and mutually reinforcing. Campaigns that aim to increase awareness of harms, or to provide public information, must sit alongside other action areas such as community engagement, research, monitoring and evaluation, in addition to necessary regulatory changes.

b. accessibility and effectiveness of services and programs to prevent uptake and continuing use of e-cigarettes.

In light of upcoming changes to the supply of vaping products, serious consideration needs to be given to the population of individuals who are nicotine dependent. The Queensland government is well placed to provide services and support to people needing support with nicotine dependency, particularly for young people. Going forward, the ADF recommends that the Queensland government investigate options for supporting young people who may be nicotine dependent through interventions that may include developing resources for parents and teachers, targeted campaigns informing young people of changes, and the subsidisation and provision of nicotine replacement therapies where needed, including in schools. These approaches may need to be relatively radical compared to usual health interventions, in that they will need to be highly targeted, and may have a fixed duration. The ADF encourages the Queensland government to be openminded in its approach, and to place an emphasis on reducing the harms associated with nicotine dependence and withdrawal.

4. A jurisdictional analysis of other e-cigarette use inquiries, legislative frameworks, policies and preventative activities

It is evident that the growing use of vaping products, particularly among young people, isn't limited to Australia. Difficulties with enforcing regulations and striking a balance between access as a harm reduction tool for smoking cessation and preventing uptake in never smokers is an international challenge. However as further research is undertaken on regulatory impacts across jurisdictions, more informed policymaking regarding vaping products can occur.

Various models and regulatory frameworks in response to e-cigarettes exist internationally. In the UK and NZ, NVPs are legal for those over 18 without a prescription, however restrictions on devices, advertising, nicotine strength and flavours are in place. Conversely all NVPs are illegal in Singapore, however use remains widespread with 16.9% of those aged 21-40 reported ever using e-cigarettes in 2023. While in the US, bans are in place for certain flavours, but this excludes disposable devices - limiting enforcement capacity.

The following table summarises some regulatory approaches and corresponding NVP use prevalence rates. However as in Australia, current and comprehensive data is lacking in many jurisdictions.

Country/region	Legal Framework	Regulations	Prevalence
UK	The Tobacco and Related Products Regulations 2016 (now The Tobacco Products and Nicotine Inhaling Products (Amendment) (EU Exit) Regulations 2020)	<ul style="list-style-type: none"> • illegal for under 18s, legal for over 18s without prescription • restricts e-cigarette tanks to a capacity of no more than 2ml • restrict the maximum volume of nicotine-containing e-liquid for sale in one refill container to 10ml • restricts e-liquids to a nicotine strength of no more than 20mg/ml • requires nicotine-containing products or their packaging to be child-resistant and tamper evident • bans certain ingredients including colourings, caffeine and taurine • includes new labelling requirements and warnings • requires all e-cigarettes and e-liquids be notified and published by the MHRA before they can be sold 	<ul style="list-style-type: none"> • ages 11-18: current vaping prevalence (including occasional and regular vaping) is 8.6% in 2022, compared with 4% in 2021 and 4.8% in 2020 • over 18: between 6.9% and 7.1%, depending on the survey • vaping prevalence among adults who have never smoked remained very low, at between 0.6% and 0.7% in 2021
Canada	Tobacco and Vaping Products Act	<ul style="list-style-type: none"> • illegal for under 18s, legal for over 18s without prescription • restrictions on advertising • maximum nicotine concentration of 20 mg/mL 	(in past 30 days, 2021) <ul style="list-style-type: none"> • 13% of youth aged 15 – 19 • 12% of those aged 20 – 24 • 3% of aged 25 and older
US	Regulated under FDA and individual states	<ul style="list-style-type: none"> • illegal for under 21s, legal for over 21s without prescription • Sweet and fruit flavours banned (but not in disposable devices) 	<ul style="list-style-type: none"> • 2022: 14.1% of 14-18 year olds, and 3.3% of 11-13 year old reported current e-cigarette use. • 2020: 5% of adults reported current e-cigarette use.
NZ	Smokefree Environments and Regulated Products Act 1990 (the Act)	<ul style="list-style-type: none"> • illegal for under 18s, legal for over 18s without prescription • Restrictions on most forms of promotion and advertising, and all sponsorship • retailers that are not approved specialist vape retailers cannot sell vaping products with flavors other than tobacco, mint, or menthol 	<ul style="list-style-type: none"> • 2022: 18.6% of youth aged 15-24 use e-cigarettes daily • 2022: 8.3% of adults use e-cigarettes daily

		<ul style="list-style-type: none"> • manufacturers and importers must notify Ministry of Health of products before the products can be sold 	
China	Regulated by the State Tobacco Monopoly Administration	<ul style="list-style-type: none"> • illegal for under 18s, legal for over 18s without prescription • ban on sales near certain education facilities • ban on sales through vending machines and the internet • ban on flavours other than tobacco 	<ul style="list-style-type: none"> • 2018: 2.2% of adults had used in past 12 months, 5% had ever used • 2018: 4.4% of those aged 15-24 had used in past 12 months, and 7.6% had ever used¹⁹
Singapore	Tobacco (Control of Advertisements and Sale) Act	<ul style="list-style-type: none"> • All e-cigarettes are illegal (possession, sale, use) 	<ul style="list-style-type: none"> • 2023: 16.9% of those aged 21-40 reported ever use of e-cigarettes²⁰

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20 June 2023

Committee Secretary
Health and Environment Committee
Parliament House
George Street
BRISBANE QLD 4000

Via email: hec@parliament.qld.gov.au

Dear Secretary,

Re: Vaping – an inquiry into reducing rates of e-cigarette use in Queensland.

Thank you for the opportunity to give evidence before the committee. The committee's questions focused on the control of supply of vaping products. The Alcohol and Drug Foundation (ADF) would like to reiterate that the issue of responses to individual use and possession of vaping products must be considered alongside the issue of supply.

As pointed out in our original submission, responses to possession and use of nicotine vaping products should be non-punitive and non-stigmatising, especially for young people. Based on our experience in alcohol and other drug prevention, we know punitive approaches can increase the stigma associated with a behaviour, such as vaping, which in turn can lead to a delay in people seeking help for that behaviour.

The ADF is concerned that punitive responses are being implemented in Queensland schools. There has been a doubling of suspensions due to substance use, which has been driven by vaping. Being suspended from school can exacerbate the risk of harm to a young person by removing the protective factors of school (e.g. social connection, education, peer and teacher support etc.) and reinforcing risk factors (e.g. isolation, shame, stigma and risk-taking behaviours).

Currently, penalties for people who are found in possession of nicotine products in contravention of the law are harsh, a fine of 200 penalty units – around \$30,000. This penalty may further exacerbate risk factors for people who vape by increasing financial strain, stigma, and isolation. It is vital that people who are found to be vaping are offered non-stigmatising and non-punitive responses that do not lead to further harms.

The ADF urges the inquiry to recommend the removal of penalties for the personal possession of Schedule 4 substances without authorisation from the *Medicines and Poisons Act 2019*. This would ensure that individuals do not face disproportionate legal penalties for the possession of nicotine vaping products and other medications, while the unauthorised manufacture, supply, and sale remain illegal.

The ADF thanks the committee for considering these points.

Sincerely,

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Martin Milne
Qld State Manager

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