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Our Reference: 202500460003
Your Reference: Illegal Vapes and tobacco

14 April 2025

Dear Peter,

Thank you for your letter of 31 March regarding the policing of illegal vapes and tobacco products to John Swinney MSP, First Minister and Kate Forbes MSP, Deputy First Minister and Cabinet Secretary for Economy and Gaelic. As Minister for Public Health and Women's Health with responsibility for tobacco and vaping policy I am responding.

I too was shocked by the incident at Dalkeith High School, I want to reassure you that my officials work closely with the Society of Chief Officers of Trading Standards in Scotland (SCOTSS) to provide more rigorous enforcement of existing legislation, including on underage sales and illicit tobacco and vapes. Local authorities receive £1.6m per year to rigorously enforce tobacco sales law, including test purchasing and joint working. SCOTSS have set outcomes based on the numbers of registered retailers. In addition, Local Authorities receive treasury funding to support action of the UK-wide Operation CeCe, which is a joint initiative between National Trading Standards (NTS) and HMRC, to remove illicit product from sale. To support the enforcement of the legislation around the sale and purchase of Nicotine Vapour Products (vapes), Local Authorities also receive an additional £1.34m.

A strong approach to enforcement is vital to meeting our 2034 target of a Tobacco free Scotland. The purchase of vaping and tobacco products is age restricted and it is illegal to sell to, or buy them for, anyone under the age of 18. In Scotland, local authorities already have powers to issue fixed penalty notices to retailers and individuals who commit offences related to the age of sale, so the adult who makes the purchase on behalf of an underage person commits an offence and may be reported to the Procurator Fiscal or may receive a Fixed Penalty Notice (FPN) of £200 as an alternative. The availability of FPNs does not remove the ability of authorities to report matters to the Crown Office Procurator Fiscal Service if appropriate.

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Tha Ministearanna h-Alba, an luchd-comhairleachaidh sònraichte agus Rùnaire Maireannach fo chumhachan Achd Coiteachaidh (Alba) 2016. Faicibh www.lobbying.scot



If a premises is subject to more than three enforcement actions in a two year period the local authority may apply to court for an order banning sale of tobacco or vaping products from that premises for up to 24 months. In 2024 banning orders were issued to two premises for a period of 12 and 24 months respectively.

I too am concerned by the advertising of vapes which appear to be specifically aimed to children and displayed alongside sweets. I cannot believe that flavours such as “gummy bear” are being marketed towards adults. Which is why I’m delighted that the Scottish Government has welcomed the re-introduction of the UK-wide [Tobacco and Vapes Bill](#) to the UK Parliament. Taking forward actions from our [Tobacco and Vaping Framework](#), we have worked closely with the UK and Devolved Governments on the development of this Bill. We brought forward a [Legislative Consent Memorandum](#) on 21 November 2024 and a supplementary LCM on 28 March 2025 for consideration by the Scottish Parliament.

The Bill will gradually increase the age of sale for tobacco products and provide powers to legislate on vape flavours, displays, packaging, as well as introduce an advertising ban for vapes and nicotine products. The Bill will create a generational change, meaning that children born after 1 January 2009 will never legally be able to buy tobacco. This landmark legislation bans vapes and nicotine products from being deliberately promoted and advertised to children to stop the next generation from becoming hooked on nicotine. If passed, and with the consent of the Scottish Parliament, the Bill will benefit public health and help save lives.

Currently we are the only nation in the UK with a functioning [Tobacco and Nicotine Vapour Product Register](#). The Tobacco and Vaping Framework set out our intention to consider how the previous register could be improved, including attaching conditions to registration. A refreshed digital product went live in January 2025. This will ensure that the register is a more effective and efficient tool for enforcement as well as for engagement with retailers on compliance with current and future legislation. The Tobacco and Vapes Bill will expand Scotland’s existing tobacco and nicotine vapour product registration scheme to include the retailers selling herbal smoking products and nicotine products including nicotine pouches. The extension of the register to retailers of herbal tobacco and nicotine products will be brought into force by regulations by the Scottish Ministers following the Bill’s royal ascent.

If the Bill is passed, we will work closely with retailers and will utilise the long lead-in time to best support them in preparing for and implementing these changes, including through improved guidance and messaging. As part of our commitment to New Deal for Business, we are already engaging at an early stage in the process to work with businesses (and a range of other key stakeholders) to ensure that any impact of proposals on business is fully understood and that policy implementation is effective and proportionate, while still delivering the beneficial outcomes for population health that we are seeking.

We are committed to doing everything in our power to tackle youth vaping in Scotland. In Scotland based on 2024 data from the ASH SmokeFree GB Youth survey, vaping prevalence is 7.4% among young people aged 11-17, with 18.8% of respondents saying they had tried vaping. Vapes are part of a range of possible cessation tools available to existing smokers to help stop tobacco use. They are not a lifestyle accessory for children or adult nonsmokers. We do not yet fully understand the long-term effects vaping has on our health, though evidence shows that they are not harm-free. Our [‘Take Hold’ marketing campaign](#) educates parents, carers and children about the dangers of vaping and increased the awareness of the harms and risks of nicotine addiction.

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The use of vapes which contain illegal and harmful substances amongst young people is deeply concerning. We are taking forward substance use education work in our schools through Curriculum for Excellence. Children and young people learn about a variety of substances including alcohol, medicines, drugs, tobacco and solvents. Through educating young people about substance use and the impact it can have on their life and health, this will prevent them making unhealthy choices. Education alone will not turn the tide of substance use but it is an important strand within a broad range of measures designed to tackle this issue.

The Scottish Government will implement the single use vape ban from 1 June 2025. The Environmental Protection (Single-use Vapes) (Scotland) Regulations 2024 set out that in order for a vape to be considered reusable, it must be both refillable and rechargeable. We have seen manufacturers move towards "high puff-count vapes", which are typically designed to include a USB charging port to allow for the battery to be recharged. However, if they do not allow for the coil to be replaced or for the replacement or refilling of the e-liquid container by the user, they remain single-use vapes and will be captured by the ban. The Scottish Government recognises that manufacturers are likely to try to circumvent the definition of single-use vape and we continued to work closely with Trading Standards to monitor developments in vape design to ensure that the definition is fit for purpose.

I hope you find this response helpful.

Yours sincerely



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