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Our Reference: 202500469764  
Your Reference: (Case Ref: WR8120)

25 June 2025

Dear Willie Rennie MSP,

Thank you for your letter of 6<sup>th</sup> June 2025 to Angela Constance MSP to raise concerns about the enforcement of laws against the sale of illegal vapes and tobacco products. As Minister for Public Health and Women's Health with responsibility for tobacco and vaping policy I am responding.

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.

If anyone becomes aware of a retailer selling illegal or single use vapes, these should be reported to trading standards within their local authority area who have a legal responsibility to investigate concerns further. Regulations are also in place across the UK to ensure minimum standards for the safety and quality of e-cigarettes, including bans on certain ingredients and restrictions on nicotine strength.

Trading standards in Scotland have applied FPN's for tobacco and nicotine vapour product (NVP) sales contraventions as summarised below during 2024/25:

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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](http://www.lobbying.scot)



### **Tobacco Products:**

| <b>Year</b> | <b>Premises</b> | <b>Test Purchases / Advice visits</b> | <b>FPNs</b> |
|-------------|-----------------|---------------------------------------|-------------|
| 2024/25     | 6817            | 2000                                  | 56          |

### **Nicotine Vapour Products:**

| <b>year</b> | <b>Premises</b> | <b>Test Purchases / Advice visits</b> | <b>FPNs</b> |
|-------------|-----------------|---------------------------------------|-------------|
| 2024/25     | 4755            | 2668                                  | 217         |

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.

With regards to concerns raised about the effectiveness of current enforcement measures and their impact on public health, especially among young people, 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.

Funding is also provided annually to Local Government and they have responsibility for working to ensure local budget decisions deliver local and national priorities, including those on the enforcement of existing legislation, including on underage sales and illicit tobacco and vapes and the single use vape ban.

We work closely with the Society of Chief Officers of Trading Standards in Scotland (SCOTSS) to support enforcement of existing legislation, including on underage sales and illicit tobacco and vapes. This includes providing funding for the SCOTSS national co-ordinator role for Scotland.

We have been working across the four nations on creating a smoke free generation and tackling youth vaping and this has led to the introduction of the UK-wide Tobacco and Vapes Bill. The Bill will gradually increase the age of sale for tobacco products and provide powers to legislate on vape flavours, displays, packaging, as well introduce an advertising ban for vapes and nicotine products. The Bill will provide powers to extend the indoor smoking ban to certain outdoor settings as well as create vape and heated tobacco free spaces subject to full consultation and impact assessments. As part of our Tobacco and Vaping Framework an assessment of the effectiveness of existing smoke free spaces in Scotland's hospital grounds, as well as identifying opportunities or where we can go further, is being led by ASH Scotland.

The Bill offers an opportunity to join up across the 4 nations ensuring consistency for business. I've chosen to do this where 4-nations policy aligns but that does not stop Scotland from creating a distinct approach where it is better for us, for example we have opted to keep tobacco and vaping register whereas the rest of the UK are introducing a new licensing scheme for tobacco and nicotine products.

Scotland is the only country in the UK with a tobacco and vapes register, and through the Bill this will be

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extended to cover nicotine products and herbal smoking products. The register has been working successfully for over ten years, and balances well the administrative burden to business and the need for accurate information to undertake enforcement. We launched a refreshed register in January this year, which makes it an even more effective and efficient tool for enforcement. It also allows for easy engagement with retailers on compliance and regulation changes. My officials continue to work with the developer on the product; currently they are working to develop learning modules to keep retailers updated on new developments in legislation.

We work closely with retailers and utilised 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 will continue to be ambitious for Scotland, and I hope this response provides clarification and information to your constituent on the actions on the work we are undertaking in Scotland.

Yours sincerely



**JENNI MINTO**

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