

Briefing for the Citizen Participation and Public Petitions Committee on petition PE1932: [Ban smoking in Scotland and develop a strategy for vaping](#), lodged by Doug Mutter on behalf of [VPZ](#), the UK's largest e-cigarette & vaping retailer

Brief overview of issues raised by the petition

Smoking is known to lead to cancer, heart disease, strokes, lung disease and diabetes, some of the [leading causes of death in Scotland](#). In 2019, smoking was the direct cause of [16% of all deaths in Scotland](#). Smoking rates are falling and in 2019 smoking prevalence was 17% among adults, down from 25% a decade before. Smoking rates are not equal across the population in Scotland. In [less wealthy areas over 30% of people smoke](#).

Vaping is the inhalation of nicotine-containing vapour using a nicotine vaping product (NVP) or electronic cigarette (e-cigarette). Most vapours have nicotine, up to a maximum strength of 20 milligrams per millilitre as regulated by the [Tobacco and Related Products Regulations 2016](#), although there are also non-nicotine vapours that are used in the same way.

There is growing consensus that vaping e-cigarettes is less harmful than smoking tobacco, including from [NHS Health Scotland](#) and the [British Medical Association](#). They can be a useful tool for smokers to replace tobacco cigarettes with less harmful e-cigarettes. A [Cochrane Review](#) analysing the evidence base for vaping as a quitting tool finds that e-cigarettes with nicotine are more effective at helping people quit smoking than other nicotine replacement therapy, like chewing gums or patches. However, where e-cigarettes are used alongside tobacco cigarettes, there [is little to no health benefit](#).

The use of e-cigarettes is [not risk free](#). E-cigarettes often contain potentially harmful ingredients like [metals, ultrafine particles and some toxic chemicals](#). There is data to suggest that vaping might increase [symptoms of irritation](#) to the throat, nose and eyes. The flavouring products in e-liquids contain chemicals that have an unknown effect on human health. They are considered safe when ingested [but the effect when heated and inhaled is not known](#). A [Committee on Toxicity](#) review concluded that [people who do not already smoke tobacco may risk some negative health effects if they take up vaping](#).

As these products have not been on the market very long, there [is little known about the long-term health impacts](#) of e-cigarette use.

Legislation and policy

As a public health matter, most aspects of smoking and e-cigarette legislation and regulation is devolved. There are areas of relevant policy that are reserved to the UK Parliament under the [Scotland Act 1998](#) including:

- consumer protection and the regulation of “misleading and comparative advertising, except regulation specifically in relation to food, tobacco and tobacco products” (Schedule 5, section C7)
- product standards, safety and liability (Scotland Act, Schedule 5, Section C8)
- medicines and medical supplies (Schedule 5, section J4).

Smoking

The Scottish Government set out its ambitions in 2013 for a [smoke-free generation by 2034](#), measured by a smoking rate of 5% or less. [Smoking rates in 2013 were 21%, and have decreased to 17% in 2019](#). Plans to achieve this 2034 target include awareness raising and media campaigns and funding and improving quitting services. The Scottish Government’s 2018 [tobacco control action plan](#) outlined some interim targets to reduce rates among specific groups. The targets included a reduction of smoking rates to 20% among the most deprived areas (Scottish Index of Multiple Deprivation quintiles 1 and 2) by 2021. Data from 2019 shows rates in these groups at [30% and 23% respectively](#). They also aimed to bring smoking rates among 13-15 year olds to 3% by 2022, it was [4% in 2018](#).

In Scotland there are a number of restrictions controlling who can buy and sell cigarettes and where they can be smoked. Advertising tobacco products was banned in the UK in 2002 by the [Tobacco Advertising and Promotion Act 2002](#).

Smoking was banned from indoor public spaces in 2006 by the [Smoking, Health and Social Care \(Scotland\) Act 2005](#).

The minimum age to purchase and smoke tobacco products was raised from 16 to 18 by the [Tobacco and Primary Medical Services \(Scotland\) Act 2010](#).

In 2016, the Scottish Parliament passed the [Smoking Prohibition \(Children in Motor Vehicles\) \(Scotland\) Act 2016](#) which made it an offence to smoke in a vehicle with anyone under the age of 18.

The Scottish Prison Service implemented a [smoke-free policy in Scottish Prisons](#) in 2018. The Scottish Government also legislated a further ban on smoking outside hospital buildings.

The [Prohibition of Smoking Outside Hospital Buildings \(Scotland\) Regulations 2022](#) creates a 15 metre smoke-free perimeter around hospital buildings.

Vaping

As it is not included in the Smoking, Health and Social Care (Scotland) Act 2005, [vaping is not prohibited in public places](#) like tobacco. Organisations, including health boards and local authorities, may set their own policies but these are not legal obligations.

The purchase and supply of vaping products is regulated by the [Health \(Tobacco, Nicotine etc. and Care\) \(Scotland\) Act 2016](#), which restricts purchasing NVPs to over-18s. This legislation also enables Scottish Ministers to make secondary legislation concerning the advertising and promotion of vape products.

The UK wide [Tobacco and Related Products Regulations 2016](#) outlines what types of NVPs can be sold in the UK, including the liquid nicotine strength and types of e-liquid available (they cannot contain caffeine, taurine or vitamins). The legislation also bans certain promotion of e-cigarettes including TV, radio, online and newspaper advertising, event sponsorship and product placement on TV. The regulations do not cover domestic advertising including at bus stops, on vehicles, billboards, and certain published materials like leaflets and flyers, all of which are still legal.

Following the removal of tobacco products from prisons in 2018, [e-cigarettes were made available to smokers and vapers in prisons](#). The Scottish Government supports the use of [vaping as a way to stop tobacco smoking](#), but are concerned about the unknown health risks and the [rise in vaping among young people](#).

Future action

In 2022, the Scottish Government launched a [consultation](#) on tightening the rules on advertising and promoting vaping products to include a wider ban on the domestic advertising of vape products. The consultation also sought views on banning free samples, brand-sharing, nominal pricing, and other sponsorships (of sports teams, for example).

The Scottish Government have ongoing work from the [tobacco control action plan](#) raising awareness of the harms of smoking and services available, including promoting the NHS quitting service '[QuitYourWay](#)'. It is also working with health professionals to review the guidance regarding e-cigarettes.

Sam Harrison

Researcher, Health and Social Care, SPICe Research

[16/05/2022]

<p>The purpose of this briefing is to provide a brief overview of issues raised by the petition. SPICe research specialists are not able to discuss the content of petition briefings with petitioners or other members of the public.</p>

However, if you have any comments on any petition briefing you can email us at spice@parliament.scot

Every effort is made to ensure that the information contained in petition briefings is correct at the time of publication. Readers should be aware however that these briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

Published by the Scottish Parliament Information Centre (SPICe), an office of the Scottish Parliamentary Corporate Body, The Scottish Parliament, Edinburgh, EH99 1SP