

Tobacco and Vaping Controls

Committee considering report:	Joint Public Protection Committee
Date of Committee:	24 March 2025
Chair of Committee:	Councillor Iskandar Jefferies
Date JMB agreed report:	10 March 2025
Report Author:	Sean Murphy
Forward Plan Ref:	JPPC

1. Purpose of the Report

1.1 To set out to the Committee the current work conducted by the Public Protection Service in relation to the regulation of tobacco and vaping products and to advise the Committee on the implications of the Tobacco and Vaping Bill currently progressing through Parliament.

2. Recommendations

The Committee:

2.1 **NOTES** the work being conducted by the Public Protection Service with respect to the regulation of tobacco and vaping products.

2.2 **NOTES** the implications of the new legislation (Tobacco and Vapes Bill) proposed and duties on the shared service Councils.

2.3 **AGREES** that the Committee will receive an update report on implementation and delivery at its meeting in December 2025.

3. Implications and Impact Assessment

Implication	Commentary
Financial:	There will be financial impacts arising from the new duties set out in the proposed Tobacco and Vapes Bill. The Department of Health and Social Care (DHSC) have indicated that trading standards authorities will receive hypothecated grant funding via regional trading standards groups to increase capacity and pay for the cost of disposal of illegal vapes. This will be funded by a levy on vapes to pay for enforcement.
Human Resource:	There will be resource implications, and these have been identified in the report. The Service will be recruiting an Apprentice Trading Standards professional with the funding secured from DHSC. It is likely that there will be other resource implications especially if enforcement leads to an increase in legal actions.

Legal:	<p>The new Tobacco and Vapes legislation will be a statutory duty on the Councils that make up the shared service.</p> <p>The inter-authority agreements place responsibility for oversight of PPP functions on the Joint Committee. It is for this reason we are recommending an update report on implementation be presented at the December 2025 meeting.</p>			
Risk Management:	<p>Officers will work through the legal implications and seek to ensure all staff involved in this work have adequate training and levels of competence to minimise enforcement and reputational risks.</p>			
Property:	None			
Policy:	<p>The Strategic Assessment contains a number of priority areas that this work will contribute to including:</p> <ol style="list-style-type: none"> 1. Building Safer Communities 2. Reducing Harm in Young People 3. Protecting and Informing Consumers 4. Protection of the Environment <p>Activity will be reported in the quarterly update reports.</p>			
	Positive	Neutral	Negative	Commentary
Equalities Impact:				
A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?	x			
B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?	x			

Environmental Impact:	x		The banning of single use vapes will have a positive impact on the environment.
Health Impact:	x		All activity designed to reducing smoking will have a positive impact on the health of our residents.
ICT or Digital Services Impact:		x	Changes to legislation and operational activity will be included on the website and regular communications will be issued to highlight the changes to residents and businesses.
PPP Priorities:			The report will impact on the following PPP Priorities (delete those that are not appropriate) 5. Building Safer Communities 6. Reducing Harm in Young People 7. Protecting and Informing Consumers 8. Protection of the Environment Business as Usual Activity is supported too.
Data Impact:		x	
Consultation and Engagement:	The Public Health Team in Bracknell Forest Council has been consulted on this report to identify areas for future co-operation.		
Other Options Considered:	None. It will be a statutory requirement for the service to implement and deliver on the new legislation.		

4. Background and Introduction

4.1 By 1960 smoking prevalence amongst adults in the UK stood at 51%. By the mid-1970s this had declined to 45% and by the early 1990s this had fallen to 30%. Since then, there has been a steady decline in prevalence and as of 2023 this had fallen to 10.5%. The sale of tobacco products to young people was set at sixteen in 1908 and this age was confirmed in the Children and Young Persons Act 1933. This was largely unenforced until the appearance of the Children and Young Persons (Protection of Tobacco) Act 1991 which placed a duty on trading standards authorities to enforce the age restriction. The age restriction was subsequently brought into line with alcohol and raised to eighteen in 2007.

4.2 The rapid decline that took place since the 1990s is down to a combination of factors including a significant drive to make consumers aware of the risks of smoking. This messaging was included as part of school curriculums and supported by smoking cessation services and aids such as nicotine patches. This was bolstered by a whole range of regulatory and fiscal measures including the ban on tobacco advertising and promotion (1997), the ban on vending machines, the ban on smoking in workplaces, the ban of packs of ten cigarettes, the requirement to remove from view, plain packaging with health warnings incorporating images and the ban on flavoured cigarettes including menthol. Fiscal measures saw the introduction of fiscal marking and a significant increase in duty. A packet of twenty cigarettes in 2000 was around £3.60. By 2025 this is closer to £14 per pack.

4.3 The first e-cigarettes in a design that we have come to recognise were developed in China in 2003. In 2006 the products emerged in Europe and what followed was a

revolution in development, distribution and marketing. In the space of a few years, we went from plain and functional products that were designed to look like cigarettes to a vast array of colours, flavours and sizes of vaping products. Specialist shops sprung up and many convenience stores turned over large areas of trading space to the vast array of products on the market.

4.4 For many adults vaping became a successful route to stop smoking tobacco but for many young people this became a trend and a popular product to consume. The vast majority of these young people had never consumed tobacco before they tried vaping. Meanwhile the effects on health are not entirely understood but as an alternative to smoking tobacco the products present a much lower risk. This presented a regulatory dichotomy with traditional tobacco products behind closed doors and the bright packaging and flavours of vaping products up front and centre. Finally, there is the concern about the environmental impact of disposal of over a million disposable vapes each day with each one containing a lithium battery and various quantities of plastic.

5. Delivery Model for the PPP and Partner Authorities

5.1 The Public Protection Service's delivery model is based on the 'National Intelligence Model'. Through this model the PPP seeks to tackle all areas of its work with a combination of preventative actions, intelligence gathering and analysis and enforcement.

5.2 Enforcement activity is predominantly undertaken by the Trading Standards Team within the Service. Preventative work and intelligence gathering is primarily funded through the Public Health Teams and therefore the approach in each of the partner authorities varies. In West Berkshire the Public Health Team fund the PPP to undertake a lot of the education activity on their behalf. In Bracknell Forest this work is undertaken by the Public Health Team albeit that there is a strong working relationship between the PH Team and the PPP.

6. The Role of Public Protection

6.1 The Public Protection Service has been at the heart of the agenda to remove tobacco and vaping related harm through every step of the journey. Trading Standards became responsible for the enforcement of age restrictions back in 1991. Since then they have been the regulatory body for every control introduced on the sale of tobacco products. In addition to those listed above, safety regulations covering tobacco products and vaping products combined with trade marks and customs and revenue legislation have provided a significant armoury in the fight against those that sought to undermine the health strategy. Environmental Health colleagues enforced provisions on smoking in work places and work vehicles and licensing colleagues dealt with licence conditions covering smoking.

6.2 Actions taken by the trading standards service have included seizure of counterfeit and smuggled tobacco, tobacco products not complying with labelling and fiscal marking requirements through to seizures of non-compliant vaping products and intelligence led and routine test purchasing by young people in line with the policy agreed by this Committee, the latest version of which can be found here: [reducing-the-harms-caused-by-the-illegal-sale-of-age-restricted-products-policy-statement.docx](https://www.westberkshire.gov.uk/documents/reducing-the-harms-caused-by-the-illegal-sale-of-age-restricted-products-policy-statement.docx). A number of prosecutions have taken place over the years for unlawful sales to young people and non compliant products.

6.3 The PPP acknowledged a long time ago that regulation and enforcement was only part of the answer when it comes to youth smoking and vaping. In those areas where public health funding has been in place (West Berkshire and Wokingham (until 2022)) the Service has run a comprehensive programme in schools to align with Personal, social, health and economic education (PSHE) programmes,. This has included year 6 theatre productions, secondary level assemblies and workshops as well as associated initiatives such as 'smoke free sidelines' – an FA led initiative to discourage smoking pitch side at youth football matches. More recently the Service has carried out funded work in West Berkshire Schools around vaping and have developed a vaping education toolkit and information library for schools: [Vaping Education Campaign - PPP](#) . Finally (where funded) Officers have been running an attitudanal survey in selected secondary schools around tobacco, alcohol and vaping. The results of this give us helpful local trend data and help drive enforcement activity.

6.4 In December 2024 we recruited a dedicated enforcement lead for age restricted products to work alongside our public health work. Between the 6th January and the 19th February (time of writing) we carried out 32 test purchases of vape products accros the PPP area and there were sales on three occassions. Each test purchasing operation has ben publicised on our social media feed and all illegal sales are being thoroughly investigated.

6.5 Finally, the PPP have been commissioned by West Berkshire Public Health to oversee the smoking cessation work in the district and are currently looking at options around targeted interventions to assist young people to quit vaping.

7. The Role of the Public Health Teams

7.1 The role of the public health teams across the partnership provides a strong platform on which to work collaboratively. However, engagement varies depending on the specific activity and the tasks in question.

7.2 All three authorities have similar public health agendas, which is not surprising given much of public health work is nationally funded and similar needs are recognised locally. Appendix A provides a summary of those activities and it is clear that these activities take a holistic approach to improving the health outcomes.

7.3 It is also clear that the public health role and PPP's approach in delivering public health work are closely aligned, and moreover the community it serves benefit from this collaborative approach.

8. Proposed and New Regulatory Controls

8.1 On the 5th November 2024 the Tobacco and Vapes Bill was put before Parliament. It is currently scheduled to come into force on 1st June 2025. The public health legislation seeks to phase out the sale of tobacco for the next generation and take a strong regulatory approach to vaping and other nicotine containing products.

8.2 The aim of the legislation is to:

- create a smoke-free generation, gradually ending the sale of tobacco products, breaking the cycle of addiction and disadvantage.

- strengthen the existing ban on smoking in public places to reduce the harms of passive smoking, particularly around children and vulnerable people.
- ban vapes and nicotine products from being deliberately branded, promoted, and advertised to children to stop the next generation from becoming hooked on nicotine.
- provide powers to introduce a licensing scheme for the retail sale of tobacco, vapes and nicotine products in England, Wales, and Northern Ireland, and expand the retailer registration scheme in Scotland, and
- to strengthen enforcement activity to support the implementation of the above measures.

8.3 The current age restriction on tobacco products will remain in place but a new rising age restriction will come into effect meaning that in effect no person over the age of fifteen at the time it comes into force will ever legally be able to buy tobacco products. This presents a challenge for both retailers and enforcers. For the purpose of enforcement, the trading standards service has been designated as the enforcing authority.

8.4 In addition, Defra led environmental legislation, namely, [The Environmental Protection \(Single-use Vapes\) \(England\) Regulations 2024](#) will ban the supply of single-use vapes in England from 1 June 2025. This legislation has completed the parliamentary process and is now law meaning that from 1 June this year it will be illegal to sell or supply single use vapes in England. Officers are working to ensure retailers are aware of these obligations ahead of the ban. Officers are also looking toward consumer awareness. This will then be followed up by enforcement activity as part of our programme on non-compliant vapes.

9. Resource Implications

9.1 As stated, the new legislation around age restrictions will present enforcement challenges for the service. It may also have implications for the case management team and others involved in the delivery of our litigation work.

9.2 One concern is that there is likely to be a lot of non-compliant vape products as the various measures are introduced. These may end up being sold by existing retailers or find their way into more illicit markets such as those used for the distribution of illegal and smuggled tobacco products. Officers will be working closely with border authorities and border trading standards teams to act on intelligence and will also work closely with HMRC through our existing Memorandum of Understanding arrangements around illicit tobacco.

9.3 Intelligence will be critical and will look at how the Service focuses its messaging on garnering intelligence in line with the National Intelligence Model that governs our overall approach to enforcement. As stated above the key as always will be Prevention: Intelligence: Enforcement.

9.4 As part of the PPP's work Officers will be looking to work closely with public health teams to ensure a holistic and co-ordinated approach and where public health funding can be accessed, the Service will continue with our attitudinal survey work and work

more generally in schools. Although enforcement will be led by trading standards all public protection staff will be trained to identify potential non-compliance.

- 9.5 In terms of funding for this work the Department of Health and Social Care have indicated that any funding for local authorities will be linked to development alongside the ([The Environmental Protection \(Single-use Vapes\) \(England\) Regulations 2024](#)) to ban the supply of single-use vapes in England from 1 June 2025.
- 9.6 This legislation has completed the parliamentary process and is now law meaning that from 1 June this year it will be illegal to sell or supply single use vapes in England. Advice for businesses that sell these products is being promoted on our social media platforms. It has been confirmed that the PPP has been successful in securing four years' worth of funding to employ an apprentice trading standards professional. The funding, which will be distributed through Trading Standards South-East will amount to some £45K per annum for PPP. In addition, funds have been made available for border authorities to pay for storage and disposal of illegal product identified through enforcement activities.

10. Concluding Observations

- 10.1 Protecting public health and improving health outcomes has always been a major part of the public health remit. The PPP has been at the heart of the delivery of associated regulatory functions for over thirty years and have played a significant role in reducing harm from tobacco and vapes. The Service has had particular focus on young people, and this is reflected in the priorities of this Committee. However, we have always acknowledged that enforcement is only part of the answer. Ultimately public health messaging especially in the formative years is critical in changing attitudes. The Service will continue to deliver that messaging as part of that holistic approach along with enforcement and public health professionals. We will continue to work closely with colleagues in the Bracknell Forest Public Health Team and share resources and messaging where it is appropriate to do so.

11. Appendices

Appendix A - Summary of Public Health Team activity regarding Vaping and Smoking

12. Background Papers:

None

Subject to Call-In:

Yes: No:

The item is due to be referred to Council for final approval

Delays in implementation could have serious financial implications for the Council

Delays in implementation could compromise the Council's position

Considered or reviewed by Overview and Scrutiny Management Committee or associated Task Groups within preceding six months

Item is Urgent Key Decision

Report is to note only

Wards affected: All Wards

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