

Citizen Participation and Public Petitions Committee

11th Meeting, 2022 (Session 6), Wednesday
15 June 2022

PE1932: Ban smoking in Scotland and
develop a strategy for vaping

Note by the Clerk

Petitioner	Doug Mutter on behalf of VPZ
Petition summary	Calling on the Scottish Parliament to urge the Scottish Government to impose an outright ban on smoking and develop a transformative public health strategy for vaping.
Webpage	https://petitions.parliament.scot/petitions/PE1932

Introduction

1. This is a new petition that was lodged on 17 May 2022.
2. The petition seeks to ban smoking in Scotland and urges the Scottish Government to develop a public health strategy which promotes vaping as a way to reduce smoking rates. A full summary of this petition and its aims can be found at **Annexe A**.
3. A SPICe briefing has been prepared to inform the Committee's consideration of the petition and can be found at **Annexe B**.
4. While not a formal requirement, petitioners have the option to collect signatures on their petition. On this occasion, the petitioner elected to collect this information. 103 signatures have been received.
5. The Committee seeks views from the Scottish Government on all new petitions before they are formally considered. A response has been received from the Scottish Government and is included at **Annexe C** of this paper.

6. A submission has been provided by the petitioner. This is included at **Annexe D**.

Action

The Committee is invited to consider what action it wishes to take on this petition.

Clerk to the Committee

Annexe A

PE1932: Ban smoking in Scotland and develop a strategy for vaping

Petitioner

Doug Mutter on behalf of VPZ

Date lodged

17 May 2022

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to impose an outright ban on smoking and develop a transformative public health strategy for vaping.

Previous action

We've aimed to educate MSPs on how Scotland has a real chance to be at the forefront of bringing an innovative approach to eradicate smoking. Ahead of the consultation into the advertising and promotion of Nicotine Vapour Products, we have written to the Health and Social Care team and opposition figures. We have Cabinet Secretary Humza Yousaf MSP and Stephen Young in Tobacco Control Policy. We've had meetings with Sandesh Gulhane MSP and Paul O'Kane MSP who sit on the Health and Sport Committee.

Background information

Smoking kills two in every three long-term smokers. The Pandemic has triggered an increase in smoking rates. Scotland has lost momentum in this public health opportunity and could miss the 2034 smoking free target. Vaping is the best way to quit smoking, latest figures show that 3million smokers have quit through vaping.

VPZ is the UK's leading vaping specialist with over 150 stores throughout the country. To date, Edinburgh-based VPZ has already helped over 700k smokers in the UK quit since it was established in 2012. The business has recently launched a pioneering vape clinic service to help more smokers quit. VPZ is a member of the UKVIA and

has campaigned to engage and outline the public health opportunity of vaping. The Scottish Government's current consultation to restrict the promotion and advertisement of vaping products has brought this strategy into further focus. VPZ strongly believes that there should be advertising to promote and educate on the public health opportunity of vaping and welcomes engagement and dialogue on helping to shape a strategy that could have a transformative impact on the health of the nation. We strongly believe that an outright ban on smoking and developing a strategy for vaping is the clear, decisive and radical action that will help us achieve this ambition.

Annexe B

The logo for SPICe, consisting of the letters 'SPICe' in a white, sans-serif font on a dark purple background.

The Information Centre
An t-Ionad Fiosrachaidh

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]

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. 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.

Annexe C

Scottish Government submission of 1 May 2022

PE1932/A – Ban smoking in Scotland and develop a strategy for vaping

The Scottish Government considers the use of vaping devices as one of a number of tools, along with medication patches and lozenges, which can assist current smokers to stop using tobacco products. While current evidence indicates that vaping is less harmful than smoking, vaping is not harm-free and should not be used by children, young people or adult non-smokers.

At this point there is limited evidence on the long-term harms vaping could cause due to the relatively short period of time that products have been available. The clinical impacts of long-term use could take decades to manifest. Vaping products should only be used as a tool to help people stop smoking tobacco. They are not a lifestyle accessory. In addition, while it is possible to vape without using nicotine, most vape devices contain nicotine which is a highly addictive substance.

While we continue to work towards addressing historic trends of high smoking rates, we are aware that technological and cultural advancements can bring about new public health concerns. The emergence of vaping products, including electronic cigarettes, as an alternative to tobacco is one such concern. The full impact of their long-term use is not yet known and could have a negative impact on public health in years to come.

An outright ban on smoking in favour of a pro-vaping policy is not something that the Scottish Government is considering.

Smoking rates continue to decline in Scotland and we are currently working on a refreshed Tobacco Control Action Plan that will deliver innovative actions to maintain this reduction and help us realise our ambition of raising a tobacco free generation by 2034.

Scotland has a world-leading approach to public health initiatives and, as the health impacts generated by long-term use of these products, with or without nicotine, are currently uncertain, the Scottish Government is considering using devolved powers to restrict the advertising channels not currently banned (such as billboards and bus shelters, etc.).

The recently closed consultation on Vaping gave everyone in Scotland an opportunity to express their views on the proposed policies. As signatories to the World Health Organisation's Article 5.3 protocol, which demands that we protect public health policy from the influence of tobacco companies, all respondents were asked to disclose links to the tobacco industry. As VPZ supplies and sells products manufactured by that industry any potential dialogue between the Scottish Government, Scottish Parliament, individual MSPs and VPZ will be restricted.

Annexe D

Petitioner submission of 7 June 2022

PE1932/B: Ban smoking in Scotland and develop a strategy for vaping

Having read through the document and comments I find it extremely strange that the Scottish Government are quoting article 5.3 and using it as a barrier.

Article 5.3 of the Framework Convention on Tobacco Control states: *'In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the **tobacco industry** in accordance with national law'*.

We, Absolute Ejuice VPZ, are nothing to do with the tobacco industry and none of our products contain tobacco. In our view, Article 5.3 is being misused here and there are no such grounds for it to be.

I would also like to add that what we are trying to do is get some engagement from the Scottish Government to discuss the Public Health disaster that smoking is and look to work together to develop a progressive strategy for vaping to allow adult smokers to have a clear and successful pathway to quit smoking.