



Glasgow City Council

Environment and Liveable Neighbourhoods City Policy Committee

Report by George Gillespie, Executive Director of Neighbourhoods, Regeneration and Sustainability

Contact: Gary Walker Ext: 78624

TOBACCO CONTROL REPORT

Purpose of Report:

To report on the activity of Trading Standards in relation to under age sales of tobacco and Nicotine Vapor Products products and update the Committee on Operation CeCe which is the joint project with HMRC in relation to illicit tobacco.

Recommendations:

To note the report and the positive work that the Service is undertaking in this area.

Ward No(s):

Citywide: ✓

Local member(s) advised: Yes ☐ No ✓

consulted: Yes ☐ No ✓

1. Introduction

- 1.1 The Trading Standards Service has seen a surge in the availability of illegal tobacco and Nicotine Vapor Products (NVPs) from wholesale and retail outlets throughout the city in the last 18 months.

2. Illegal Tobacco

- 2.1 The sale of illegal tobacco is not a victimless crime. The supply of illegal tobacco puts the health of our communities at risk by undermining public health and tax measures to drive down tobacco use. In addition, children are regularly targeted, not only becoming addicted but often being exposed to criminals involved in money laundering.
- 2.2 The most common examples of what is defined as illegal tobacco are:
- Counterfeits of well-known brands.
 - Cheap genuine tobacco smuggled into the UK with no-duty paid. These packages are often in foreign languages and do not have the health safety warnings that are required in the UK.
 - 'Cheap whites' which are mass produced in one country and smuggled into another. These are brands which are not legally available in the UK Market.

3. Tobacco and Nicotine Vapour Products (NVPs): Age Restrictions

- 3.1 The minimum age for the legal purchase of tobacco increased from 16 to 18 years in Scotland, England and Wales on 1 October 2007.
- 3.2 As a result of amendments to the Tobacco and Primary Medical Services (Scotland) Act 2010 introduced in April 2016, the sale of NVPs became the subject of restrictions on supply, particularly prohibiting the supply to young people for the first time.
- 3.3 In addition to prohibiting the supply of tobacco and NVPs to people under the age of 18, the amended legislation also requires businesses to operate an age verification policy and challenge anyone that may be under 25 years old. All businesses selling these products must also be registered with the Scottish Tobacco Register.

4. Tobacco and Nicotine Vapour Products (NVPs): Controls and Actions

- 4.1 Glasgow City Council has a duty under Section 26(1) of the Tobacco and Primary Medical Services (Scotland) Act 2010, to carry out a programme of enforcement action, in respect of tobacco.

- 4.2 Trading Standards Services in Scotland entered into an agreement with the Scottish Government to increase enforcement activity in relation to cigarettes and NVPs, with a view to reducing the availability of tobacco products to young people. The long-term aim being to prevent young people from taking up smoking and nicotine vaping.
- 4.3 Test purchasing activity is carried out in line with Glasgow City Council's established test purchasing protocol and guidance developed by the Society of Chief Officers of Trading Standards in Scotland (SCOTSS). The guidance allows for the test purchase volunteer to adopt a given persona in exceptional circumstances. They may be given an assumed name, address and date of birth but this will only be used where the authority has suspicion that the retailer is test purchase aware and this is the only realistic means of detection. It is anticipated that instances where this is required will be extremely rare and, in any case, will be subject to specific authorisation by the Head of Service.
- 4.4 Businesses that sell either cigarettes or NVPs to the young volunteers are issued with fixed penalty notices and provided with follow up advice on how to ensure they comply in the future.
- 4.5 Additional test purchase volunteers need to be recruited now as following the period of COVID restrictions, the existing volunteers became too old for this purpose. However, the service issued two FPNs in Ward 12 North East to both the seller and the business at the end of last year. Future test purchasing activity will be driven by intelligence from Police Scotland, school campus cops, HSCP and complaints received.
- 4.6 Officers follow up and investigate all allegations of underage sales of tobacco and vape products across the city by visiting the premises, making the trader aware of the complaint and issuing business advice. Officers have engaged with businesses in every ward in the city over the last year and tobacco seizures have taken place in half of the city wards. The highest numbers of interventions with businesses during this time period were in the Anderston/City/Yorkhill, Shettleston and Calton wards.
- 4.7 In terms of licensing to sell these products, retailers are required to register with the Scottish Government and these details are noted on a public register. Failure to register can result in a fixed penalty notice being issued. If a retailer is found to be in breach of tobacco sales legislation three times within a two year period, then an application can be made to the court for a tobacco or nicotine vapor product banning order.
- 4.8 Failure to pay a Fixed Penalty Notice can result in the case going through the court process. Should this result in a conviction, it will be a matter of public records and can be publicised.
- 4.9 The team will now develop a campaign around the sale of tobacco and NVPs to anyone under age using a method similar to the successful Police Scotland campaign on under age sales of alcohol.

5. Operation CeCe Scotland

- 5.1 Operation CeCe (Scotland), a nation-wide strategy between Scottish Trading Standards Services and HM Revenue and Customs (HMRC) was set up in 2021 to tackle the retail sale of illegal tobacco products.
- 5.2 Since its inception in 2021, more than 778,000 illegal cigarettes and 126kg of Hand Rolling Tobacco (HRT) has been seized by officers from Glasgow Trading Standards. Using figures provided by HMRC, these seizures equate to a prevented loss of revenue of approximately £365,000.
- 5.3 During 2022, Glasgow's Trading Standards Service conducted 63 intelligence led visits under the Operation CeCe (Scotland) banner. This intelligence was gathered from a variety of sources including, but not limited to, consumer complaints, complaints from other retailers being impacted by the supply of Illegal tobacco and partner agencies.
- 5.4 Of the 63-intelligence led visits conducted by officers, seizures were made from 51 premises (81%).

6. Consumer Protection Dogs UK

- 6.1 On many of the operations, officers utilised the services of Consumer Protection Dogs UK.
- 6.2 The dogs have been trained to target the scent of tobacco products and are able to assist officers in finding hidden or concealed illegal products in more unusual places, such as under floorboards and behind false walls.
- 6.3 The dogs are funded by the Society of Chief Trading Standards Officers in Scotland and are used by Scottish Local Authority Trading Standards Services to locate illicit tobacco.

7. Partnership Working and Other Successes

- 7.1 Intelligence obtained from a visit to a Glasgow retailer was shared with HMRC and disseminated within the organisation. As a direct result of this intelligence, a significant seizure of illegal tobacco products was made by Border Force Officers.
- 7.2 GCC Trading Standards officers gave a presentation at a Chartered Trading Standards Institute (CTSI) training event on the work being undertaken in Glasgow.
- 7.3 Officers have forged strong working relationships with officers from Police Scotland and HMRC. These contacts have been utilised to assist in other areas of enforcement work thereby improving the service that we provide to Glasgow residents and consumers.

- 7.4 In August 2022, Lord Jamie Lindsay, President of the Chartered Trading Standards Institute visited our offices at Eastgate. Lord Lindsay gained an insight into how Glasgow is tackling the scale and complexity in the city of the supply of illegal tobacco.

8. Nicotine Vapour Products

- 8.1 Research conducted by the Chartered Trading Standards Institute (CTSI) revealed that illicit vapes are the products Trading Standards professionals are most concerned about on the UK's high streets.
- 8.2 Trading Standards has noted a surge in illicit sales of vaping products by wholesale premises, specialist vape shops, convenience stores and corner shops over the past year.
- 8.3 The sale of nicotine vaping products is an area treated with high priority. The rapid expansion of the market for disposable nicotine devices is a concern and presents a real risk to the environment and health, especially of young people.

9. Non-Compliant Products

- 9.1 Vapes and e-cigarettes are regulated by the Medicines and Healthcare products Regulatory Agency (MHRA), which requires that they have tanks to a capacity of no more than 2ml; a nicotine strength of no more than 20mg/ml; and their labels display manufacturer details and health warnings. Refill containers are restricted to a maximum capacity of 10ml, certain ingredients including colourings, caffeine and taurine are banned, and nicotine-containing products or their packaging must be child-resistant and tamper evident.

10. Business Advice

- 10.1 Glasgow City Council Trading Standards has carried out extensive visits to wholesale and retail premises throughout the city, providing advice and guidance on compliance. During 2022, officers provided advice to 433 businesses on tobacco and NVP compliance.

11. Enforcement

- 11.1 In the final three months of 2022, in excess of 13,000 non-compliant single use vapes were seized for further examination. These products were seized for a variety of reasons including tank capacity, nicotine strength well in excess of permitted levels and failure to notify the product(s) to MHRA.
- 11.2 A report is being submitted to the Procurator Fiscal regarding a recent seizure of non-compliant products.

12. Future Developments

- 12.1 The Scottish Government has commissioned an urgent review of the environmental impacts and management of single-use vapes.
- 12.2 The review, which comes in response to emerging concerns around the negative consequences of the disposable devices, will inform potential policy responses, which could include a ban of the products. Another local authority has backed a proposed ban on the sale of disposable vapes and Glasgow may also wish to support this.
- 12.3 The disposable smoking devices have been linked to issues including litter, plastic waste and fire risk.
- 12.4 Other approaches could include increasing access to responsible disposal options, improved product design or a public communications campaign.

13. Policy and Resource Implications

Resource Implications:

Financial: This work is carried out using funding provided by the Scottish Government and HMRC provide funds for Operation CeCe.

Legal: The Tobacco and Related Products Regulations.

Personnel: Delivered by existing council staff.

Procurement: Not Applicable

Council Strategic Plan: Grand Challenge 4 - Deliver Essential Services in a Sustainable, Innovative and Efficient way for our Communities.

Equality and Socio-Economic Impacts:

Does the proposal support the Council's Equality Outcomes 2021-25? Please specify. Reducing health inequality

What are the potential equality impacts as a result of this report?

Positive Impact

Please highlight if the policy/proposal will help address socio-economic disadvantage.

This work will help address socio-economic disadvantage

Climate Impacts:

Does the proposal support any Climate Plan actions? Please specify:

No

What are the potential climate impacts as a result of this proposal?

N/A

Will the proposal contribute to Glasgow's net zero carbon target?

N/A

Privacy and Data Protection Impacts:

Are there any potential data protection impacts as a result of this report.

No

14. Recommendations

- 14.1 To note the report and the positive work that the Service is undertaking in this area and to consider supporting a proposed ban on the sale of disposable vapes.