



OFFICIAL REPORT
AITHISG OIFIGEIL

Health, Social Care and Sport Committee

Tuesday 6 May 2025

Session 6



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HEALTH, SOCIAL CARE AND SPORT COMMITTEE
13th Meeting 2025, Session 6

CONVENER

*Clare Haughey (Rutherglen) (SNP)

DEPUTY CONVENER

*Paul Sweeney (Glasgow) (Lab)

COMMITTEE MEMBERS

*Joe FitzPatrick (Dundee City West) (SNP)

*Sandesh Gulhane (Glasgow) (Con)

*Emma Harper (South Scotland) (SNP)

*Gillian Mackay (Central Scotland) (Green)

*Carol Mochan (South Scotland) (Lab)

*David Torrance (Kirkcaldy) (SNP)

*Elena Whitham (Carrick, Cumnock and Doon Valley) (SNP)

*Brian Whittle (South Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Professor Linda Bauld OBE (Scottish Government)

Fiona Dill (Scottish Government)

Jenni Minto (Minister for Public Health and Women's Health)

CLERK TO THE COMMITTEE

Alex Bruce

LOCATION

The Sir Alexander Fleming Room (CR3)

Scottish Parliament

Health, Social Care and Sport Committee

Tuesday 6 May 2025

[The Convener opened the meeting at 10:01]

Decision on Taking Business in Private

The Convener (Clare Haughey): Welcome to the 13th meeting in 2025 of the Health, Social Care and Sport Committee. I have received no apologies.

Agenda item 1 is a decision on taking business in private. Do members agree to take items 3 and 4 in private?

Members *indicated agreement.*

Tobacco and Vapes Bill

10:01

The Convener: The next item is an evidence-taking session with the Minister for Public Health and Women's Health and supporting officials on the United Kingdom Tobacco and Vapes Bill supplementary legislative consent memorandum LCM-S6-51a, which was lodged in the Scottish Parliament by the Cabinet Secretary for Health and Social Care on 28 March 2025.

The legislative consent process, as set out in chapter 9B of standing orders, requires the Scottish Government to notify the Scottish Parliament, by means of a legislative consent memorandum, whenever a UK Parliament bill includes provision on devolved matters. Each LCM is referred to a lead committee to scrutinise and report on before the Scottish Parliament decides whether to give its consent to the UK Parliament legislating in the manner proposed.

The purpose of the Tobacco and Vapes Bill, which was introduced in the House of Commons on 5 November 2024, is to make provision on the supply of tobacco, vapes and other products, including provision prohibiting the sale of tobacco to people born on or after 1 January 2009; to make provision on the licensing of retail sales and the registration of retailers; to enable product and information requirements to be imposed in connection with tobacco, vapes and other products; to control the advertising and promotion of tobacco, vapes and other products; and to make provision on smoke-free places, vape-free places and heated tobacco-free places.

The committee previously took evidence from the minister on LCM-S6-51 at its meeting on 17 December 2024. On 18 March 2025, the UK Government tabled an amendment to the Tobacco and Vapes Bill, inserting a new clause that extends only to Scotland. As the clause is not covered by the original LCM-S6-51, the need for supplementary LCM-S6-51a has been triggered, and that is the supplementary LCM that we are considering this morning. The new provision pertains to age verification and will give Scottish ministers the power to prescribe methods, including, but not limited to, the showing of a document, to establish a person's age.

I welcome to the meeting Jenni Minto MSP, the Minister for Public Health and Women's Health; Professor Linda Bauld OBE, chief social policy adviser; Fiona Dill, teams leader, tobacco, gambling, diet and healthy weight directorate; and Rosie MacQueen, lawyer.

I invite the minister to make a brief opening statement.

The Minister for Public Health and Women's Health (Jenni Minto): Since I provided evidence on 7 December, the Tobacco and Vapes Bill has continued its progress through the UK Parliament, with its second reading in the House of Lords on 23 April. I am delighted to say that there continues to be cross-party support for the bill and for creating a tobacco-free country for future generations.

We are here to discuss the supplementary legislative consent memorandum to the bill that was lodged in our Parliament on 28 March, which specifically relates to an amendment on age verification. The amendment, which relates to clause 60 of the bill, ensures that we have the ability to prescribe more age verification options in an ever more digital world. Currently, someone who is accused of selling products contrary to the age of sale restrictions in Scotland might have a defence if they check certain prescribed identity documents, and the clause seeks to amend the Tobacco and Primary Medical Services (Scotland) Act 2010 to ensure that Scottish ministers will have a power to prescribe a wider range of methods of age verification in regulations.

Once commenced, the current prescribed list of documents on the face of the 2010 act will be removed but can effectively be replaced by regulations. Ministers will have the flexibility to authorise digital forms of age verification in the future, should they be satisfied that it is appropriate to do so at the time. Scottish ministers will have the power to commence those changes through regulations, which will provide flexibility with regard to when any new regulations need to be brought forward. Consideration will be given to whether consultation is needed and, if so, to the nature of such consultation, depending on the content of future regulations.

In so far as new powers are being granted to Scottish ministers to make regulations, any such regulations will be subject to the negative procedure. The Scottish Parliament will, therefore, have the opportunity to closely scrutinise the content of those regulations to ensure that they meet the needs of Scottish policy. The amendment will ensure that Scottish ministers have the ability in future to accommodate developments in age verification, and it will enable the Scottish Parliament to appropriately scrutinise any such proposals and associated regulations in more detail at the relevant stage of the process.

I therefore recommend that the Scottish Parliament consent to the supplementary legislative consent memorandum.

The Convener: Thank you very much, minister. A number of committee members have questions.

Sandesh Gulhane (Glasgow) (Con): I declare an interest as a practising national health service general practitioner.

Good morning, minister. I would like a few things clarified, if that is okay. First, the legislation will repeal and replace certain provisions in the 2010 act, but I have not seen anything about people who buy products for those who are underage. Will the legislation remain the same as it is now in that regard?

Jenni Minto: If I remember correctly, you asked a similar question when I was before the committee in December. If I have understood you, the issue is whether people who are under age who buy tobacco products will then be charged.

Sandesh Gulhane: I am sorry, minister, but no—I am referring to what would happen if, for example, I were to buy products for somebody underage.

Jenni Minto: Oh, you are referring to proxy purchasing. My apologies—I misunderstood your question. No, there is absolutely no change in that regard. Proxy purchasing would still fall under this bill.

Sandesh Gulhane: Okay. Can you explain to me what a herbal product is?

Jenni Minto: I will hand over to Professor Bauld to answer that.

Professor Linda Bauld (Scottish Government): Herbal products are normally made from herbs that we might find in our garden and other constituent parts. They do not contain tobacco or nicotine, and they are rolled up like a cigarette. They are often marketed as a healthier alternative to smoking tobacco, but we have concerns about them, as they still involve combustion. When you inhale something—indeed, you and I touched on this at the last meeting—it is the combustion that still causes some harm.

Sandesh Gulhane: The last time that I questioned you, minister, we spoke about snus and the dangers associated with it. However, the issue actually goes further than that one product to others like it. I am not sure whether snus is included in the ban, so can you clarify that? Given that we recently saw such products being handed out free to people at Waverley station as part of a trial, we probably need to do a bit more in that area.

Jenni Minto: I absolutely agree that we need to do a bit more about those novel products—if I may call them that—and that is exactly what the bill aims to do: it aims to bring products such as heated tobacco and snus under the legislation to ensure that we have better powers to reduce their availability to young and older people. As I understand it, a lot of evidence gathering is still

going on in the area, because we need to ensure that we have robust evidence in that respect.

Professor Bauld: As Sandesh Gulhane knows, the term “snus” has traditionally applied to the low-nitrosamine tobacco products from Sweden that are already illegal in the UK. People have used the term to apply to nicotine pouches, which are a different product using synthetic nicotine. Those are definitely the ones that I saw being given away at Waverley station, unfortunately, but that kind of free distribution will be covered under the bill, too.

The evidence on those products is very limited, as they have come on to the market only in the past few years. From what we know of their constituents, I am pretty confident that they will be significantly less harmful than smoking. There have been some studies looking at periodontal disease and oral health; the products are not as harmful as oral tobacco, as I have said, but there are still concerns. For example, we know that they are addictive, and we expect that there will be a cardiovascular response, because nicotine raises the heart rate et cetera. However, it is still very early in that process; we have not had any large randomised control trials in the UK looking at nicotine pouches, so we will have to wait and see.

The bill tries to strike a balance between keeping products available to people who smoke and who might use vaping, or even nicotine pouches, as a cessation aid, while recognising that we absolutely need to tackle the sort of thing that we saw at Waverley station, which was about marketing those products, including to young people. The bill is trying to address that.

Sandesh Gulhane: Thank you.

Emma Harper (South Scotland) (SNP): Good morning. I have a couple of questions about some of the products. Some disposable products now have USB adapters added to them, which may or may not work, so that they are seen as rechargeable rather than single-use products. How will the bill help us to deal with the evolving market of products that claim to be multi-use and rechargeable when they are actually single-use but disguised with a USB connection?

Jenni Minto: We have had a number of conversations about that issue in looking at the bill. We have raised challenges on that, because we recognise that some products might be described as rechargeable simply because they have a USB point in them. The bill has been drafted as broadly as possible. There is a requirement that, if something has a removable coil, it would be defined under the bill as not being rechargeable. That is the work that we have been doing on that.

I absolutely recognise that we need to make sure that we capture all the new products that are

coming in; the bill has been drafted as broadly as possible.

Emma Harper: I also want to ask about supporting local authority trading standards officers to monitor who is selling these products. I am aware that taxi drivers sell them, and that a local Chinese restaurant in Dumfries sells them—it did not previously sell cigarettes, but it now sells vapes. What is the Scottish Government doing, or what can it do, to support the tracking of products that are being sold?

Jenni Minto: We have extensive conversations with trading standards officers. We have been speaking to them throughout the drafting of the bill and its passage through the UK Parliament, in line with the work that we need to do on the LCMs.

10:15

In Scotland, we have a register for anyone who sells tobacco products, which will be expanded to include the new products as part of the bill. We have just invested in that, and it has far better outreach, which means that we can have direct conversations with retailers who are selling the products. It is important to underline that there is legislation to ensure that retailers do not sell to underage people. The purchaser needs to provide evidence of their age and the supplementary LCM will allow us to shift that from being simply paper documents to digitally accessible documents.

Emma Harper: This is my final question, as the convener also has questions. On advertising and marketing, we do not have control over television advertising in Scotland, but we can control advertising on bus stops and bus shelters and things like that. The American Lung Association has a programme called “Get your head out of the cloud”, which is aimed at parents who say that their kids would never vape. Is there an opportunity to support widening the information that is given out, so that people can understand the damage that is being done to their lungs if they are vaping?

I am asking that as a nurse but also as co-convener of the lung health cross-party group, which has had loads of discussions about the ill-health consequences of vaping.

Jenni Minto: Yes, absolutely. Fiona Dill and I had a helpful visit to one of the secondary schools in Edinburgh to talk to parents—actually, fathers—who are concerned about their children accessing vapes. We have also had a campaign—I cannot remember the name of it off the top of my head.

Fiona Dill (Scottish Government): It is called the take hold campaign.

Jenni Minto: Yes—I can picture it. My apologies. We advertised it at the Scottish

women's cup final on the advertising hoardings at Tynecastle last year and it shifted people's awareness. That campaign was directed specifically at parents through posters and short podcasts. It was a very important campaign to ensure that parents recognise the concerns about children vaping.

Emma Harper: We will continue to support raising awareness of the dangers of nicotine products that are inhaled.

Jenni Minto: Yes.

The Convener: Minister, we are all aware of the smoking cessation programmes that operate across the country. However, if we are stopping single-use vapes and preventing young people from being able to buy vapes, we could be left with a population that has a nicotine addiction. Will you expand on some of the work that is being done to support young people to stop vaping? Has any work been done on nicotine replacement therapy for those who are affected?

Jenni Minto: You are absolutely right. The level of smoking in Scotland has stubbornly stayed at around 15 per cent. We have been working hard with Public Health Scotland to get in-depth data so that we can understand where we need to focus our work. We also work closely with community pharmacies and provide them with support. The posters can often be seen in those pharmacies.

We also work closely with health boards. Last year, we baselined funding within NHS budgets to ensure that they could spend money specifically on smoking cessation products and support, as their local needs required. It is very much a combined area of work to ensure that we support people who are addicted to nicotine products, whether they be cigarettes or vapes. In fact, I have had a few letters about the issue from concerned parents, and we can always point them in the direction of the smoking and vaping cessation support that we have in Scotland.

The Convener: Are young people who are not yet 16 or 18 able to access that? Is there an evidence base for nicotine replacement therapy in young people of that age?

Jenni Minto: The evidence base is being built up now, but, yes, most definitely, young people who are smoking or vaping can access the support facilities. There is also a new study that has been funded, which Professor Bauld will tell you about.

Professor Bauld: The evidence on vaping cessation—rather than smoking cessation—is still quite early, because we have not had a lot of services. However, there is a new chief scientist office-funded study on youth vaping cessation that my colleague Dr Fiona Dobbie is leading, which

will be interesting to look at. It is great that young people can access the services, but we absolutely need more evidence.

Jenni Minto: That shows the importance of working with Public Health Scotland so that we get the information through health surveys.

Gillian Mackay (Central Scotland) (Green): My question relates in particular to age verification and the supplementary LCM. There are new forms of identification coming on board—we have challenge 25 at the moment—so how quickly does the Government envisage us being able to skill up the workforce that is selling the affected products to make sure that we do not inadvertently have young people accessing things that they should not, or people who are trying to use products for cessation being unnecessarily refused?

Jenni Minto: That is a good question. We were talking about that earlier. The LCM will allow us to include digital ways of getting identification, but it will not stop the use of paper identification. We will not be repealing provisions on the use of paper forms of identification from the Tobacco and Primary Medical Services (Scotland) Act 2010 until we have new regulations in place.

We will do some consultation on the regulations to ensure that we get them right, but it is through the important conversations that we have with trading standards and the regulatory review group representing businesses that we will understand the best way of implementing them if the decision is made to do so.

As I highlighted earlier, we also have the updated register, which will allow us to push out information to retailers, so that they are kept informed of any changes.

Gillian Mackay: On the designation of smoking and vaping-free places, there is obviously very good compliance at the moment with the ban on smoking indoors, but there are other spaces—in particular, around hospitals and other such places—where smoke-free zones are not currently working particularly well. How does the Government envisage more smoking and vaping-free places being enforced properly when we cannot enforce the ones that we have?

Jenni Minto: I often speak to officials about that. We currently have ASH Scotland doing a review of how smoke-free spaces around hospitals are being enforced. We will use that to look at the possibility of having other spaces, perhaps. Consultation is important, so we will have that work as part of an evidence base, but we will then go out and consult more widely, as I have highlighted before, with RRG and other organisations.

Gillian Mackay: Is there a plan to bring in an official ban on vapes in indoor spaces? Obviously, at the moment, although most shopping centres and other such places will not allow it to happen, there is not a ban in the same way as there is on smoking indoors. Having an official ban in place on smoking indoors is one of the things that has made that move successful.

Jenni Minto: I agree, and I am often in places—on ferries, for example—where a specific announcement is made about that. Fiona, can I bring you in?

Fiona Dill: That section will be up for consultation, so we have not made those decisions yet. The ASH Scotland review that the minister mentioned is looking at the expansion of smoke-free and aerosol-free spaces. We will look at that evidence, alongside other evidence, to decide what the best way forward is.

The Convener: No other member has indicated that they have any questions, so I thank the minister and her officials for attending today and for their evidence.

At our next meeting, on Tuesday 13 May, the committee will continue its scrutiny of the Right to Addiction Recovery (Scotland) Bill by taking oral evidence from two panels of witnesses.

That concludes the public part of today's meeting.

10:25

Meeting continued in private until 10:44.

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