



Retail and Distributor Licensing Framework for the Vape Sector

2024

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FOREWORD

No matter what legislation the government introduces for the vape sector, whether the announced ban on disposable vapes or future restrictions on flavours and packaging, one thing is abundantly clear...

...a fit-for-purpose licensing scheme for the vape sector is critical to ensuring current and future laws can be effectively enforced and rogue traders can be swiftly held to account. Without such a system in place, those unscrupulous sellers who are responsible for wrongly putting vapes in the hands of under 18s, and for selling illicit and non-compliant products, will simply continue to flout the rules. This first-of-its-kind framework lays out exactly what licensing for vape retailers could and should look like and follows a comprehensive consultation period involving leading figures representing the retail industry, trade bodies, regulatory landscape and consumer groups.

The proposed scheme includes a fee structure which could generate upwards of £50 million in annual self-sustaining funding – which is over 60% more than the recently announced £30 million government investment in illicit tobacco and vape enforcement functions and would be an answer to continued calls from the Chartered Trading Standards Institute for greater support and resources.

It also puts forward a penalty system which would see cowboy retailers hit with fines as high as £10,000 and face losing the right to sell vapes, as well as strict compliance requirements for licence holders covering the key areas of youth access prevention, quality control and product standards, marketing and advertising practices and environmental and recycling obligations. It also includes a model for distributors.

I have personally been in this industry for 11 years and have seen the public health power of vaping first-hand. The latest data from public health charity Action on Smoking and Health shows almost 4.5 million adults in Great Britain – including myself - have used e-cigarettes to move away from, or completely cut out, smoking.

Despite this success, concerns around underage sales and illicit products mean vaping – which is recognised as one of the most effective quitting tools available – has not been able to achieve its full stop smoking potential and there are still 6.4 million adult smokers in the UK.

The rogue traders who are intent on breaking the law are not welcome and will not be tolerated by the legitimate sector and they certainly do not represent the industry that I, like so many others, have grown to be so passionate about.

This licensing scheme seeks to address key industry challenges by getting tough on rogue traders, establishing a nationwide code of conduct for vape retailers and generating significant investment for enforcement – after all, regulation without enforcement is the same as no regulation at all. We would like to thank all those who contributed to this framework and welcome the opportunity to discuss, debate and progress this roadmap to a new era of responsibility and accountability for the vape industry.



Dan Marchant
Managing Director, Vape Club





EXECUTIVE SUMMARY



EXECUTIVE SUMMARY

Licensing Objectives:

1. To create a sustainable and viable funding base for enforcement and inspection functions relating to the vape sector.
2. To foster a more responsible and accountable sector by tackling key concerns and challenges such as youth access and illicit product sales.
3. To better enable regulators and Trading Standards to proactively enforce existing and future legislation.
4. To reinstate trust in the legitimate vape sector and enable vaping to fulfil its full potential in helping the UK hit its smokefree 2030 ambition.

The development of this framework for a retail and distributor licensing scheme for the vape sector has been commissioned by Vape Club, one of the largest online vape retailers in the UK and a founding member of the UK Vaping Industry Association.

It comes at a time when vaping is coming under increasing scrutiny from policy makers due to concerns around youth vaping and the rise in trading of illicit products. This scheme also follows news of a government ban on disposable vapes.

Currently, no such licensing system for the vaping industry exists in the UK, meaning anyone, whether specialist store, off-licence, takeaway, sweet shop, taxi driver or wholesaler has free-rein to sell vaping products. It also means those retailers and distributors who wrongfully flout the law – including by selling to minors or stocking illicit or non-compliant goods - can more easily fly under the

radar of regulators and enforcement officers. There are continued calls for licensing for vape sellers and distributors as a means to create greater accountability within the sector and help local Trading Standards teams more effectively carry out enforcement by providing a clearer picture of the vape retail landscape in the UK.

The proposed scheme outlined in this document covers key considerations such as a fee structure to ensure the system is funded, governance and robust oversight mechanisms and stringent criteria which retailers would need to meet before qualifying for a licence. The framework also outlines a fine and penalty system for those who breach the licence terms and the conditions under which a licence can and should be revoked.





Why Introduce a Licensing Scheme in the UK?

Over the last year, the rise of youth vaping and illicit e-cigarettes have become arguably the industry's biggest challenges. As a result, the vaping industry has been under the spotlight and it is possible that the government will further regulate and restrict how the sector can operate including the introduction of the newly announced ban on disposable vapes or potential future flavour restrictions

By establishing a licensing scheme, the Government, the legitimate vape sector and other key stakeholders can take action to remove rogue retailers and distributors from the market, restrict youth access to vapes and cut illicit product sales off at the source. Such a scheme can also operate effectively without compromising the public health role of vaping in helping adult smokers quit and progressing the UK's Smokefree 2030 ambition.

The scheme would be funded by annual licence fees meaning it is self-sustaining and an additional revenue source for Trading Standards vape enforcement. Additional income would also be generated from fines and penalties levied against those breaching the terms of their licence.

Such a scheme will also help rebuild confidence in the legitimate vape sector and bridge the trust gap that currently exists with many adult smokers when it comes to their perception of vaping versus smoking. The latest data from Action on Smoking and Health UK shows as many as four in ten smokers in Great Britain believe vaping to be as or more harmful when compared to smoking despite incontrovertible evidence that vaping is at least 95% less harmful than smoking.



Methodology

This framework is the culmination of extensive research into the implementation, structure, benefits and pitfalls of existing schemes such as Scotland's Register of Tobacco and Nicotine Vapour Product Retailers, the Specialist Vape Retailer scheme in New Zealand and the UK's alcohol licensing system.

The scheme was also developed in consultation with industry representatives, regulators, consumer groups and retail and vaping trade bodies whose insights were critical in shaping what an effective and practical licensing system should look like.

The stakeholders who were interviewed as part of the development of this licensing scheme were:



Kate Pike

Lead Officer for Vaping with Trading Standards



Michael Landl

Director of the World Vapers' Alliance (WVA)



Clive Bates

Director of Counterfactual Consulting Ltd



Andrej Kuttruf

Chief Executive of Evapo



James Lowman

Chief Executive of the Association of Convenience Stores



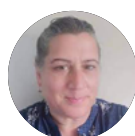
Chris Kelly

Founder and CEO of Phoenix 2 Retail



Robert Sidebottom

Managing Director of Arcus Compliance



Nancy Loucas

Founder and Executive Coordinator of the Coalition of Asia Pacific Tobacco Harm Reduction Advocates (CAPHRA)



John Dunne

Director General of the UK Vaping Industry Association (UKVIA)



Mark Oates

Director of WeVape

Thank you to all those who contributed to this framework and to this report.



PROPOSED LICENSING FRAMEWORK

The following sections outline the framework of the proposed licensing system for retailers, followed by a model which looks at how the scheme would need to be adjusted for distributors. Key components covered are:

I. Structure and Funding

- Eligibility for Obtaining a Licence
 - For brick-and-mortar sellers
 - For online businesses
 - Differentiating vapes and youth appealing products
 - Preventing Overprovision of the Sector
- Application Process and Requirements
 - What should the application process look like?
 - Designated Premises Supervisor/ Designated Site Supervisor
 - Education and testing as part of the premises licence application
 - Accessibility and fairness
- Fee Structure and Renewal
 - Additional fees for specialist retailers
 - Potential generated funds
- Allocation of Funds
 - Additional funds

II. Compliance Requirements for Licence Holders

- Preventing Youth Access to Vaping
 - Nicotine-free vapes
- Quality Control and Product Standards
 - Establishing a culture of best practice
- Marketing and Advertising Practices
- Environmental and Recycling Obligations
- Vigilance from Licensees

III. Penalties and Enforcement

- Establishing Offence Categories
- Determining Culpability and Harm
- Penalty Structure and Licence Revocation
 - Knowingly engaging in underage/illicit vape sales
 - Penalties for trading without a licence
 - Fixed Penalty Notices for employees
 - Designated Premises Supervisor/ Designated Site Supervisor Licence Revocation
 - On-the-spot fines and the right to appeal
 - Transparency at point of application
- Licence Revocation and Reapplication
- Enforcement Mechanisms and Inspection Protocols

IV. Governance and Oversight

- Establishing Administrative and Governing Bodies
- Duties and Responsibilities of Administrative and Governing Bodies
- Responsible Authorities

V. Distributor Model

VI. Next Steps





I. STRUCTURE AND FUNDING

Structure and Funding

This section details who can and can't apply for a licence, the application process for obtaining a licence, the fee structure and the distribution and sustainability of funds.

Eligibility for Obtaining a Licence

It's critical that the retail licensing scheme doesn't excessively block access to vaping products for adult vapers and smokers in the UK. As such, the option to apply for and potentially obtain a licence to sell vaping products should be available to all retail categories, including supermarkets, convenience stores, off-licences, forecourt traders, online retailers and specialist vape traders – given the

uniquely harmful nature of smoking, retailers who sell cigarettes should be permitted and encouraged to apply.

All retailers who are granted a licence would need to meet and uphold a strict set of qualifying criteria. At the same time, there are some circumstances which would automatically prevent a business from being granted a licence at all.

For brick-and-mortar sellers these are:

- If the business primarily stocks and sells products which are disproportionately youth appealing i.e., confectionery and toys (this would not include supermarkets, convenience stores and other retailers who stock youth appealing products amongst a range of other product categories including alcohol, tobacco, groceries etc)
- If the business has previously been caught trading vaping products without a licence.
- If the business has received an official warning, fine, prosecution or other enforcement action for selling age-gated products – such as alcohol, cigarettes or knives - to minors within the past two years.
- If the business-owner or Designated Premises Supervisor has faced a relevant criminal conviction in the past two years, is on a suspended sentence or is on probation.
- If the business is attempting to reapply within two years of having its licence revoked.
- If the business sells other age-gated products – such as alcohol – without the appropriate licences and certifications.
- If the individual the business puts forward as the Designated Premises Supervisor does not hold a personal licence.
- If the primary function of the business is not retail – for instance, a takeaway would not be able to sell vapes as they are in the food service industry. Examples of other businesses which would not be eligible for a licence include:
 - Hairdressers, barbers or beauticians/aesthetics clinics
 - Taxi drivers/ranks and similar service providers
 - Permanent event venues such as cinemas and theatres
 - Short-term and seasonal events such as fairgrounds and carnivals

Although they do not fall under the umbrella of 'retailer', pubs, clubs and bars should still be able to apply for a licence as they are hotspots for smoking and present a unique opportunity to help adults move away from cigarettes through vaping – which has been shown to be one of the most effective stop smoking methods on the market. Further, these businesses should already have robust age-verification procedures in place as they sell alcohol – which is an age-gated product which requires a licence.



For online businesses these are:

- If the business primarily stocks and sells products which are disproportionately youth appealing i.e., confectionery and toys (this would not include supermarkets, convenience stores and other retailers who stock youth appealing products amongst a range of other product categories including alcohol, tobacco, groceries etc)
- If the business has received an official warning, fine, prosecution or other enforcement action for selling age-gated products – such as alcohol, cigarettes or knives - to minors within the past two years.
- If the business has previously been caught trading vaping products without a licence.
- If the business-owner or Designated Site Supervisor has faced a criminal conviction in the past two years, is on a suspended sentence or is on probation.
- If the business sells other age-gated products – such as alcohol – without the appropriate licences and certifications.
- If the individual the business puts forward as the Designated Site Supervisor does not hold a personal licence.
- If the business is attempting to reapply within two years of having its licence revoked.
- If the primary function of the business is not retail – for instance, a takeaway wouldn't be able to sell vapes on its website as it is in the food service industry.
- If the business is based on an ecommerce website or online marketplace which doesn't allow the sale of nicotine or vaping products.

Differentiating vapes and youth appealing products

As outlined above, retailers who primarily stock and sell disproportionately youth appealing products should be blocked from obtaining a licence to sell vapes. However, businesses who stock youth appealing products among a range of other products should still be able to apply to sell vapes, so long as they can effectively differentiate the two categories.

This would, for instance, allow supermarkets to continue to sell vapes as they can keep them on an entirely different aisle to toys and other child-oriented goods, but would prevent sweet shops from stocking vapes alongside brightly-packaged confectionery - for convenience stores and smaller retailers, this could be as simple as displaying signage showing vaping products are solely intended for over 18s and for online retailers, this could and should be achieved by listing vaping products in a distinctly separate section of their website to any youth appealing items.

Online retailers should also have to be precise in their marketing and ensure it is clear which products are and are not appropriate for minors. They should also make sure that content on pages where you can browse and purchase youth appealing items never directly links to pages with vape products.

To clarify, this framework in no way puts forward or endorses display bans for vaping products as such policy risks conflating vaping with smoking, which could discourage adults from moving away from cigarette use by making the switch.



Preventing Overprovision of the Sector

This, or any, framework should not be used to limit the number of appropriate retailers which can obtain a licence to sell vapes both nationally and on a local authority level. Such restrictions do not exist for the sale of tobacco and, if implemented, would mean cigarettes are more assessable than vaping products – which, according to the Office for Health Improvement and Disparities, ‘pose a fraction of the risks of smoking’.

Application Process and Requirements

The application process for a licence to sell vapes should fulfil three criteria including:

- 1. Being administered at the local authority level with central government oversight;**
- 2. Ensuring all licence holders are compliant with the objectives of the scheme (i.e., to prevent youth access to vaping and to ensure the highest product standards);**
- 3. Allowing input from responsible authorities.**

Local authorities already have the infrastructure in place for licensing some age-gated products and activities under The Licensing Act 2003 – a framework covering applications by individuals or businesses wishing to engage in four ‘licensed activities’, including the sale and supply of alcohol.

To summarise, a relevant business wanting to sell alcohol would have to apply for and obtain a ‘premises licence’ by completing an application form and sending it, as well as the appropriate fee, to their local council or ‘licensing authority’. The application is then processed by the council’s ‘licensing committee’ and can also be commented on by ‘responsible authorities’.

The vaping scheme could borrow from or act as an extension of this existing system – with some key considerations to ensure it is fit for purpose for the vape sector.

What should the application process look like?

Businesses applying for a premises licence to sell vaping products should fill out an online form which can then be sent to the relevant local council or licensing authority. In this case, premises licence applies to a brick-and-mortar retail location or an individual online store. This is to ensure that one central government body or department isn’t responsible for processing all applications from across the UK, which could slow down the system altogether. Online retailers should register with the local authority area in which their head office is located.

As part of the application form, businesses should:

- Provide necessary contact information and address – including head office address if part of a retail chain
- Provide information on the legal entity which owns the business i.e., sole trader, limited company, plc etc.
- Provide details of the business i.e., postal address, the opening hours of the business etc.
- For online retailers, they would need to provide details of where the business is hosted i.e., an independent site or ecommerce marketplace.
- Confirm which retail category the business belongs to i.e., convenience store, supermarket, specialist vape store etc.
- Provide the intended opening date of the business or the date from which it intends to start selling vaping products – if the business was already trading vapes before the licensing system was introduced, this needs to be stated as well.
- Provide details of the ‘Designated Premises Supervisor’
- For online retailers, applicants would need to provide details of a ‘Designated Site Supervisor’ whose function is essentially that of the DPS
- Outline actions the business has introduced, or plans to introduce if not open at the time of application, to meet the compliance requirements for licence holders.



Applicants should also have to provide images of the premises as part of the application including:

- A picture of all entrances and exit points taken from the interior of the premises
- A picture of all entrances and exit points taken from the exterior of the premises
- A picture of the front of the premises taken from the exterior
- A picture of the till/counter area
- A picture of the interior of the premises taken from each of the entrance and exit points

Online retailers would need to provide images of key areas of the website, including the homepage, terms and conditions, main product pages and an age verification page.

The purpose of these images is to ensure the authority charged with processing the application has a clear understanding of the type of business and the layout of the premises/online store, allowing them to better understand 1) if the business is an appropriate retailer 2) whether or not the business can effectively separate vaping products from any youth appealing products they sell.

A retailer which also has a B2B sales function or operates a distribution arm would separately need to apply for a distributor licence.

Designated Premises Supervisor/ Designated Site Supervisor

Under current legislation, any business or organisation selling or supplying alcohol, excluding members clubs and certain community premises, 'must have a designated premises supervisor' – defined as 'the person who has day-to-day responsibility for running the business'.

The DPS should 'act as primary contact for local government and the police' and 'must understand the social issues and potential problems associated with the sale of alcohol'. Further, the DPS should also have a 'good understanding of the business itself' and be involved enough to 'act as its representative'.

As with alcohol, any premises which is licensed to sell vapes should have a Designated Premises Supervisor – or Designated Site Supervisor for online retailers. The DPS/DSS must have a personal licence which, as with the premises licence, could be obtained as an extension of the existing licensing infrastructure with some key considerations to ensure it is fit for purpose for the vape sector.

Those applying for a personal licence to sell vapes should be over 18-years-old – as with alcohol - and should not have any relevant criminal convictions from the past two years, be on a suspended sentence or be on probation – all criminal convictions should be disclosed as part of the application process. All DPS/DSS applicants should also be subject to a DBS check when applying for a personal licence.

Before applying for a personal licence, applicants first have to earn an accredited qualification which ensures licence holders are 'aware of licensing law and the wider social responsibilities involved in the sale of alcohol'.

Those applying for a personal licence to sell vaping products should also be required to earn an accredited qualification which ensures they are aware of licensing laws, understand the compliance requirements for licence holders and have a strong knowledge of the vaping sector.

With alcohol, the same person may act as the designated supervisor at more than one business – this should be the same for licensed vape premises.



Education and testing as part of the premises licence application

As part of the application process for a premises licence to sell vapes, there should be a short education video and multiple-choice test to ensure the business filling out the form has an understanding of the licensing laws and the compliance requirements for licence holders.

Topics covered could include:

- Challenge 25 procedures and in person age verification best practice
 - For online retailers, this should include full digital age verification procedures and best practice
- Fundamentals of vaping – i.e. basic product categories, flavours
- Basic laws surrounding product requirements i.e., nicotine concentration limits
- Relevant business requirements such as EPR and WEEE obligations.

The information covered in the premises application should also be covered in full as part of the personal licensing qualification – as such, if the DPS/DSS is the one filling out the premises licence application, they should already be knowledgeable on these topics.

Accessibility and fairness

While the compliance requirements upheld by a licensing scheme must be stringent and strongly enforced, the application process to become an approved licence holder needs to be straightforward and accessible – if it is too resource-intensive or complicated, there is a risk that it could become prohibitive, with some retailers being too overstretched or intimidated to apply.

There should be an established infrastructure in place to help applicants with queries they may have on the process, supporting documents or requirements. This should all be in the form of self-help resources made available online.

Fee Structure and Renewal

The cost of a retailer licence to sell vaping products should be set annually and at a level which is high enough to generate funds for the administration and effective enforcement of the scheme, without being prohibitive.

To ensure the cost of licensing is proportional to the size of the business and does not unduly benefit large retailers or discriminate against independent retailers, it should be charged on a premises-by-premises basis – meaning a retailer with 25 locations would pay for 25 licences – with the fee amount issued on a sliding scale.

Businesses would fall into one of four bands which, as with alcohol under the Licensing Act 2003, would be determined based on non-domestic rateable value. Following contributions from stakeholders, existing licensing schemes and the purpose of this framework – which is, in part, to provide a stable foundation of funding for enforcement functions – it is recommended that the fee amount for the lowest band should be set at £750. It was suggested as part of the consultation process for this report that the fee amount should be as high as £1,000 per premises.

Implementing this fee structure should be straightforward as such a system is already in use and many of the businesses which would need to apply for a vape licence – i.e., supermarkets, convenience stores, off licences – are already rated on this basis given that they typically sell alcohol.



Potential generated funds

An economic impact assessment of the vaping industry by the Centre for Economics and Business Research (Cebr) found that, in 2020, there were 3,644 vape shops across the UK. The Association of Convenience Stores' 'Local Shop Report 2023' estimates there to be 49,388 convenience stores in mainland UK – this figure includes unaffiliated independents, forecourts, symbol groups, co-operatives and convenience multiples.

Further, it is estimated that seven of the largest supermarket chains in the UK – including Aldi, Lidl, Waitrose, Sainsburys, Tesco, Asda and Morrisons – have a combined 5,000+ supermarket locations across the UK.

If each of these retail premises were to obtain a licence to sell vaping products at the band one rate of £750 each, the total annual funds generated from fees alone would amount to **£43,530,000** – this is almost 50% more the £30 million the government recently pledged to help intercept illegal tobacco and vaping goods at the border and tackle youth access. This is a conservative figure which will increase as businesses are divided into the four bands. It is projected that the total generated funds would far exceed £50 million when all factors are considered.

Retail Type	Number of Individual Premises (Estimated)	Fee total
Specialist Vape Shops	3,644	£2,733,000
Convenience Stores	49,388 (mainland UK)	£37,041,000
Supermarkets	5,008	£3,756,000

There is some evidence to suggest the number of specialist online vape retailers serving the UK is around 200, while other estimates suggest there could be upwards of 500. This figure could be even higher if you account for all the non-specialist online retailers who could sell vaping products.

As there is less available evidence to identify the number of active online vape retailers - something that would be addressed by this very licensing scheme - these have not been included in the above model. That said, 500 specialist online retailers paying £750 for a licence to sell vaping products would amount to an additional £375,000 in annual funding for this scheme.

There should also be consideration made as to whether online retailers pay more for a licence as they are not geographically limited in the same way as brick-and-mortar retailers and so have the potential to reach a wider consumer base– even if they only have one 'premises'. This additional cost should be based on a sliding scale which takes into account metrics such as units sold or revenue from vape sales.

As some online retailers have the potential to move as many products as a chain of brick-and-mortar stores, consideration should be given as to whether they are subjected to a higher number of annual test purchasing exercises – the cost of which could be covered by the aforementioned fee top-up.



The cost to obtain a personal licence for the sale of vaping products should be equal to that for alcohol - estimated at around £62 when you include the cost of a DBS check.

Allocation of Funds

The funds generated from licensing fees, as well as fines and penalties, should be ring fenced so they can only be used for functions relating to the vape licensing scheme. It should be split across two main areas:

- **Enforcement:** Some funding should be allocated to local Trading Standards teams based on the number of registered premises in their jurisdiction. This should cover the cost of test purchasing, monitoring and other enforcement actions.
- **Administration:** Some funding should be allocated to local authority licensing teams and the central government body charged with overseeing the scheme to cover operational and administration costs such as:
 - Processing applications
 - Maintaining and updating online portals
 - Establishing an education and testing function as part of the premises application process
 - Hiring and training additional support staff to absorb new influx of licensing applications

There should be a proportional buffer or top-up added to account for the cost of enforcement action and administration functions related to non-registered sellers. As licence fees cannot be used to cover action for non-licence holders, this should come from government funding, as well as funds generated from fines and penalties.

Online retailers should fall under the oversight of the local authority area in which the head office is located.

Additional funds

If there are any additional funds left at the end of a financial year, these should still be ring fenced for the purposes of the vape licensing scheme or for related functions. Some appropriate ways this money could be used include:

- Local Stop Smoking Programmes and Services
- Providing additional take-back bins and recycling resources for vaping products
- Additional education courses for licence holders
- Public education programmes on the relative harms of smoking and vaping





WE OPERATE CHALLENGE 25

**If you are lucky enough to look under 25
you will be asked to provide photo ID
Please don't be offended. It's the law!**

II. COMPLIANCE REQUIREMENTS FOR LICENCE HOLDERS

Compliance Requirements for Licence Holders

Preventing Youth Access to Vaping

Businesses wishing to obtain a licence to sell vapes must show they have introduced measures to prevent the sale of vapes to minors at their premises.

The retailer must also ensure these measures remain in place after the licence is granted and for the duration it is valid – if not, they may face punitive action.

As well as avoiding any disqualifying factors for obtaining a licence, retailers should be required to comply with requirements such as:

- Exercising Challenge²⁵ procedures at all times – this includes ensuring staff are effectively trained in how to handle underage purchase attempts before they are allowed to process sales.
 - Online retailers must ensure and demonstrate they have robust age verification processes in place to prevent young people from purchasing products online.
- Training staff on identifying and handling potential proxy sales (an adult suspected of purchasing age-gated products on behalf of minors).
- Ensuring staff under the legal purchasing age are not permitted to approve the sale of vaping products, as with alcohol licensing. This responsibility should instead be given to a staff member over the age of 18 or the DPS.
- Keeping a detailed and up-to-date log of all denied underage or proxy purchase attempts – otherwise known as a ‘refusals register’.
- Ensuring internal promotional materials are not youth appealing or feature characters and imagery which would disproportionately appeal to minors.
- Ensuring the retail location is not decorated in a way which would disproportionately appeal to minors – i.e., including child-oriented imagery on internal/external signage.
 - Online retailers should ensure the website is not designed in a way which would disproportionately appeal to minors – including by using pictures and other media which features child-appealing imagery and characters.
- Ensuring that vape products are kept separate from youth appealing products such as confectionery and toys – a retailer which primarily sells youth appealing products should be automatically blocked from obtaining a licence.

Nicotine-free vapes

In May 2023, the government announced that it was launching a review into banning the sale of nicotine-free vapes to minors. As part of the framework in this report, licensed retailers will not be permitted to sell nicotine-free vapes – or any vape-related paraphernalia – to anyone under the age of 18.



Quality Control and Product Standards

Research from the Chartered Trading Standards Institute (CTSI) found that illicit vapes are one of the most concerning threats on the UK's high street. This framework will help curb the availability of non-compliant vapes by ensuring licensed sellers are meeting high quality control and product standards.

Businesses must show they have introduced measures which ensure they are only stocking and selling compliant products. The retailer must also ensure these measures remain in place on an ongoing basis – if not, they may face punitive action.

As well as avoiding any disqualifying factors for obtaining a licence, retailers should comply with the following requirements such as:

- Only stocking and selling products which appear on the Medicines and Healthcare products Regulatory Agency's (MHRA) 'notified products list'.
- Ensuring all products are compliant with the provisions outlined by the Tobacco and Related Products Regulations (TRPR).
- Ensuring all staff are educated on the basic TRPR requirements so they can provide guidance on 'red flags' to consumers – this will help vapers and smokers avoid buying illicit and non-compliant products from other sources.
- Keep records of all transactions with distributors, wholesalers and manufacturers for at least six years - this is to ensure all products stocked by a retailer can be traced back through the supply chain.

Establishing a culture of best practice

To obtain and keep a licence, retailers must also show they are compliant and responsible across the board. Under the scheme outlined in this document, a retailer which is found guilty of engaging in malpractice or gross misconduct in other areas – i.e., failing to pay VAT – should be subject to punitive action.

Marketing and Advertising Practices

It is critical that vaping products are promoted in a responsible and ethical manner which does not appeal to young people or contravene the regulations set out by the Committee of Advertising Practices (CAP) and enforced by the Advertising Standards Authority (ASA).

Businesses wishing to obtain a licence must show they are aware of best marketing practices and have introduced measures to ensure they are not advertising products in an inappropriate or non-compliant manner.

The retailer must also ensure these measures remain in place after the licence is granted and for the duration it is valid – if not, they may face punitive action.

- As well as avoiding any relevant disqualifying factors for obtaining a licence, retailers should comply with requirements such as:
- Ensuring all marketing materials and promotional activities align with the advertising standards enforced by the ASA, including:
 - Marketing communications must not be likely to appeal particularly to people under 18, especially by reflecting or being associated with youth culture.
 - People shown using e-cigarettes or playing a significant role must neither be, nor seem to be, under 25.
 - Marketing communications must state clearly if the product contains nicotine. They may include factual information about other product ingredients.
 - Marketing communications must not encourage non-smokers or non-nicotine users to use e-cigarettes.
- Not owning or operating a business account on social media platforms which are disproportionately used by people under the age of 18 and without the ability to effectively age-gate and/or restrict access to minors, such as TikTok and Snapchat – even if these channels are not used to promote products.



- If a business sells vaping products among a range of other product categories - i.e., a supermarket - the business should still be permitted to have social media accounts, but should make no reference to any of the vaping products it stocks on these platforms.
- Online retailers should not include any advertisements for youth-oriented products or services directly alongside vaping products – for instance, a supermarket would not be allowed to position an advert for toys on the same web page where people can purchase vapes.

Environmental and Recycling Obligations

The vape sector – especially the disposable category – is under increased scrutiny for its impact on the environment. This framework can be used to reduce this impact by ensuring retailers are meeting their WEEE obligations.

Businesses wishing to obtain a licence must show they are aware of and have introduced measures to ensure they are meeting their environmental responsibilities. The retailer must also ensure these measures remain in place after the licence is granted and for the duration it is valid – if not, they may face punitive action.

As well as avoiding any disqualifying factors for obtaining a licence, retailers should comply with requirements such as:

- Offering in-store collection points where consumers can drop off used vape devices for recycling – there should be no obligation to buy more products when using these bins.
- Displaying posters and educational materials at the point of sale which offer guidance on the correct recycling of vaping products and appropriate recycling points in the local area.
- Ensuring staff are trained to offer guidance on the correct recycling of vaping products and appropriate recycling points in the local area.
- Online retailers should provide this information on a dedicated page on their websites which consumers can easily access and include recycling guidance on any confirmation emails and digital receipts.

- As online retailers are not limited geographically, they should be required to provide consumers with information they can use to identify local recycling points.

Vigilance from Licensees

Licensed vape sellers should be expected to report any retailers who they suspect of trading without a licence or failing to uphold compliance requirements – i.e., engaging in underage or illicit vape sales.

Currently, potential offences have to be reported to Trading Standards through Citizens Advice.

A channel of communication which allows licensed holders to report potential illicit activity directly to the relevant local authority or Trading Standards should be established as part of the scheme put forward in this framework.

At the same time, retailers which are found to be maliciously reporting other businesses– i.e., for commercial gain or to create a nuisance – should face potential punitive action.



A high-visibility yellow and blue jacket with the words "TRADING STANDARDS" printed in bold black letters on the back. The jacket has a dark blue collar and a grey reflective strip at the bottom. The background is a blurred crowd of people.

**TRADING
STANDARDS**

III. PENALTIES AND ENFORCEMENT



Penalties and Enforcement

A licensing scheme is rendered ineffective without a robust, comprehensive and, critically, fair penalty and enforcement system which ensures retailers are meeting and upholding their responsibilities.

This section outlines the penalty structure for licence holders who fail to meet compliance requirements – as detailed under the header ‘Compliance Requirements for Licence Holders’ - as well as retailers who sell vapes without a licence.

It also breaks down the processes for licence revocation, reapplication and details enforcement mechanisms which can and should be used to deter retailers from breaking the terms of their licence – i.e., selling to minors or selling illicit products

Establishing Offence Categories

To ensure the severity of the penalty appropriately reflects the offence or instance of non-compliance, licence breaches should be split into three categories – each with their own parameters and penalty levels. This system takes inspiration from guidelines issued by the Sentencing Council on ‘offence categories’ and fine bands pertaining to ‘Alcohol Sale Offences’ in relation to the Licensing Act 2003:

- Category 1** **Higher culpability and greater harm**
- Category 2** **Higher culpability and lesser harm or lower culpability and greater harm**
- Category 3** **Lower culpability and lesser harm**

This framework follows a similar approach.



Category	Defining Parameters	Example Offences	Base Fine Amount
Category 1	Higher Culpability and Greater Harm	<ul style="list-style-type: none"> Insufficient policing of underage sales (e.g. an underage sale occurs as a result of not providing staff with relevant training) For online retailers; not putting effective age verification measures at the point of purchase. 	£2,500
Category 2	Higher Culpability and Lesser Harm or; Lower Culpability and Greater Harm	<ul style="list-style-type: none"> An employee sells a vape to a minor despite receiving correct training on relevant youth prevention procedures 	£1,000
Category 3	Lower Culpability and Lesser Harm	<ul style="list-style-type: none"> Failing to provide an up-to-date refusals register or transaction registers for all products purchased. 	£500

The fine amounts listed above should act as a minimum to ensure they are impactful.

Determining Culpability and Harm

Using the Sentencing Council's guidelines as a general model, the culpability and harm related to an offence should be determined using factors such as:

Culpability

- Whether or not the licence holder took reasonable steps to prevent the sale or supply of vaping products to a minor – i.e., following Challenge25 procedures
- Whether reasonable steps were taken to ensure products being stocked and sold are registered on the MHRA's notified products list and align with TRPR regulations
- Whether the offence was carried out by the DPS/DSS or a general member of staff who does not hold a personal licence

Harm

- Whether the offence resulted in the sale or supply of vaping products to a person under the legal purchasing age of 18
- Whether the offence resulted/or had the potential to result in the sale or supply of illicit and non-compliant goods



Penalty Structure and Licence Revocation

This framework puts forward a four-strike penalty system. The fine amount increases at every stage. If a retailer commits a fourth offence, they should face a fine of £10,000 regardless of the offence category and should have their licence revoked. The following table details the fine amount at each of the four stages.

Offence Instance	Fine	Amount
First Offence	Base fine amount for relevant offence category for this instance	Category 1 - £2,500
		Category 2 - £1,000
		Category 3 - £500
Second Offence	Double the fine amount for the relevant offence category for this instance	Category 1 - £5,000
		Category 2 - £2,000
		Category 3 - £1,000
Third Offence	Triple the fine amount for the relevant offence category for this instance	Category 1 - £7,500
		Category 2 - £3,000
		Category 3 - £1,500
Fourth and Final Offence	Fine of £10,000 and licence revocation	Category 1 - £10,000
		Category 2 - £10,000
		Category 3 - £10,000

If a business is found to be in breach of its licence requirements, it should also be expected to cover the cost of another inspection by Trading Standards to take place at some point within 60 days. Consideration should be taken as to whether retailers who have committed four category three offences should have their licences suspended until they can prove they have taken action to comply with requirements rather than having their licence revoked - they should still, however, face a fine of £10,000.



Knowingly engaging in underage/illicit vape sales

Separately to the three categories detailed in the before section, the most egregious of offences - knowingly selling vapes to minors or selling illicit goods - should be addressed through a more immediate and harder-hitting process.

Retailers guilty of this level of offence should be hit with an immediate fine of £10,000 and be put on probation for two years – the same period retailers have to wait to reapply after having their licence revoked.

If a retailer commits no other offences during this time, their record is wiped clean. However, if a retailer commits a second offence before the two years is up, they face a second fine of £10,000 and lose their licence. All offences reset after two years.

Penalties for trading without a licence

Retailers caught selling vapes without a licence should be subject to a flat fine of £10,000.

Further, if a business licensed to sell an age-gated product, such as alcohol, is caught selling vapes without a licence, it should lose its licence to sell the other age-gated product and vice versa. Anyone caught trading without a licence should have all stock which is intended for sale seized.

If a business is found to be selling vaping products without a licence, it should also be expected to cover the cost of another inspection by Trading Standards to take place at some point within 60 days.

To help Trading Standards and consumers quickly identify whether a retailer is approved or not, licence holders should have to display a certificate at the point of sale and point of entrance which has a QR code leading to a page confirming they are an approved seller. These pages should be hosted as part of a directory on a government run website. Retailers should also be expected to display guidance on 'red flags' which consumers should look for when purchasing products.

If the business does not have the correct certification on display or is not on this register, it is reasonable for a consumer to assume they are not licensed to sell vapes.

Fixed Penalty Notices for employees

As part of a case study for a new research report on the 'Enforcement Landscape for the Vape Sector', a manager for North Lanarkshire Council Trading Standards highlighted that, in Scotland, both the business owner and the employee who carried out the transaction can be given an FPN in the event a vape is sold to a minor.

She explained that such an approach can help deter underage sales as a triple digit fine - £200 (reduced to £140 if paid within 14 days) in the first instance - is a significant amount for a junior employee to pay out and so they would be less likely to take the risk.

A similar approach should be adopted as part of this licensing scheme. Whenever a retailer is fined for an offence, the responsible employee should be issued an FPN of £200 (reduced to £140 if paid within 14 days).



Designated Premises Supervisor/Designated Site Supervisor Licence Revocation

If a retailer commits four offences and loses its licence to sell vapes, the DPS/DSS for that premises or website should also have their personal licence revoked.

That said, special consideration should be taken as to whether a DPS/DSS can keep their licence if they can show they routinely raised issues of non-compliance to the business owner but were overruled or if they alerted Trading Standards and the relevant local authority to offences.

On-the-spot fines and the right to appeal

Evidence gathered by leading compliance firm Arcus Compliance revealed that many Trading Standards teams don't have the authority to issue fines and that this power is reserved for the court.

To ensure swift and effective action is taken against retailers who are caught engaging in illicit activity or breaching the terms of their licence, Trading Standards should be given the ability to issue on-the-spot fines.

In other areas - such as alcohol and driving offences - fine amounts are known to be reduced if paid within a certain amount of time. If feasible, this process should not be applicable to category 2 offences and above, as the severity of these offences is so high.

It is critical that a system is put in place through which retailers can appeal a fine if they think it is unjust. The penalty can be revoked if it is deemed inappropriate.

There should also be an opportunity for responsible authorities such as the police and Trading Standards to offer their input on appeals.

Transparency at point of application

All licence applicants need to be fully informed of the penalty structure at the time of application. This includes providing them with a detailed breakdown of the fines and the conditions under which they could have their licence revoked.

They also need to be informed that particularly egregious offences which show a clear disregard for the rules could result in an immediate £10,000 on-the-spot fine and a banning order.

Licence Revocation and Re-Application

As with annual fees, licence revocation should take place on a premises-by-premises basis. This means that, if a retailer which is part of a chain of 25 loses its licence, the other 24 are unaffected.

Further, if a business loses its licence to sell vapes, it should lose any other licences it holds to sell age-gated products - i.e., alcohol - and vice versa.

In the event a retailer or Designated Premises Supervisor/Designated Site Supervisor loses their premises/personal licence, they should not be able to reapply for a new licence for a minimum of two years.

The retailer/DPS/DSS will need to make clear on their new application that their last licence was revoked and provide the reasons as to why. Local authorities and the central government body overseeing the scheme should keep an up-to-date log of all active, expired and revoked licences.

If a retailer/DPS/DSS commits four more offences or loses their licence a second time, they should not be able to reapply.



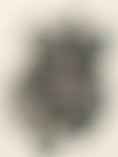
Enforcement Mechanisms and Inspection Protocols

To ensure licence holders are meeting their compliance requirements and are not engaging with illicit activity, they must be subject to regular inspections and enforcement operations carried out by their local Trading Standards teams.

Every licensed retailer should be:

- Subject to test purchasing exercises at a minimum of every six months to ensure they are following youth access prevention procedures.
- Subject to a stock inspection at least every three months to ensure the products they sell are registered on the MHRA notified products list and comply with TRPR provisions.
- Subject to a general administrative and securities check every six months to check they are keeping an up-to-date refusals register etc.
- Subject to regular checks to ensure that they are not engaging in non-compliant marketing and advertising practices – this must be done in collaboration with the Advertising Standards Authority (ASA).
- Subject to regulator check to ensure they are meeting environmental and recycling obligations – this must be done in collaboration with the Office for Product Safety and Standards (OPSS).




Home Office



Home Office

IV. GOVERNANCE AND OVERSIGHT

Governance and Oversight

This section outlines the authorities who should be charged with governing and administering the scheme on a local and national level and their duties and responsibilities, as well as the need for collaboration with 'responsible authorities'.

Establishing Administrative and Governing Bodies

The vape licensing scheme should be administered at the same local authority level as the Licensing Act 2003, however, policy and laws surrounding this scheme should be overseen on a central government level to ensure that the same approach and standards are being upheld nationally.

The two ministerial departments who should jointly govern this scheme are the Home Office and The Department of Health and Social Care as:

- **The Home Office** is already responsible for overseeing the policy and laws relating to alcohol licensing and so should be equipped to assume governance of a licensing scheme for an age-gated product.
- Given the unique and established role of vaping as a less harmful alternative to smoking – which kills 250 people every day in the UK alone and presents a significant financial burden to the NHS – the input of **The Department of Health and Social Care** is critical.

Duties and Responsibilities of Administrative and Governing Bodies

The duties and responsibilities of local authorities as the administrators of this scheme should include:

- Processing applications from businesses and individuals in the local area who wish to obtain a premises or personal licence for the sale of vaping products – this includes creating and maintaining an online portal through which applications can be made and issuing guidance where appropriate.
- Keeping a register of all active, expired and revoked licences which can be fed into a central register of all licences across the UK.
- Processing all fees – these will be fed into a central funding pot which will then be divided up across the UK for administration and enforcement costs related to licence holders.
- Processing all fines - these will be fed into a central funding pot which will be divided up for enforcement relating to non-licence holders and other functions under the scheme.
- Mobilising and coordinating Trading Standards and local police to ensure enforcement functions – i.e., bi-annual test purchasing and bi-annual administrative checks - are being carried out.
- Ensuring that Trading Standards and local police are acting on reports of non-compliance in a timely manner i.e., within seven days.
- Liaising with the Home Office and The Department of Health and Social Care where appropriate to determine if there are grounds for immediate removal of a licence.
- Providing government with key statistics pertaining to the licence for the purposes of annual reporting – i.e., number of licensees, number of licence revocations, percentage of licences held by different retail categories.



The duties and responsibilities of the Home Office and The Department of Health and Social Care as the joint governing bodies of this scheme should include:

- Overseeing laws and policies relating to the scheme and establishing a national framework for vape licensing.
- Ensuring all statistics provided by local authorities are consolidated into an annual national report.
- Distributing funds generated through fees and penalties across local authorities.
- Ensuring local authorities are meeting enforcement and inspection targets and, if necessary, introducing penalties for those who routinely fail to fulfil responsibilities in this area.
- Ensuring local registers of active, expired and revoked licences are consolidated into one central register – this is to give a national picture as to the number of licensed vape sellers and allows local authorities to see if a retailer had a licence removed by another council.

‘Responsible Authorities’

Under the Licensing Act 2003, applications for a premises licence to sell and supply alcohol can be commented on by a selection of ‘responsible authorities’.

Similarly, relevant enforcement bodies and regulators should be given an opportunity to input on applications made by businesses and individuals wishing to obtain a vape licence.

The ‘responsible authorities’ in the case of this scheme should include:

- **Trading Standards** – which will play a significant role in enforcing the compliance requirements of the licence and taking action against retailers who are engaging in illicit activity and trading without a licence.
- **Local Law Enforcement** – which will be critical in assisting Trading Standards in carrying out enforcement functions.
- **The Office for Product Safety and Standards** – which should engage with local authorities and trading standards to provide guidance on environmental and recycling responsibilities enforced by the scheme.
- **The Medicines and Healthcare products Regulatory Agency (MHRA)** – which is ‘the competent authority for the UK’s notification scheme for nicotine containing vaping products in Great Britain and Northern Ireland’.
- **The Advertising Standards Authority** - which should engage with local authorities and Trading Standards to provide guidance on marketing and advertising standards enforced by the scheme.
- **The Home Office** – which should jointly govern the scheme alongside The Department of Health and Social Care.
- **The Department of Health and Social Care** - which should jointly govern the scheme alongside The Home Office.





V. DISTRIBUTOR MODEL

Distributor Model

This model takes the retail licensing framework and identifies areas which would need to be adjusted to ensure it is fit for purpose for distributors.

For this scheme, distributors are defined as the intermediary between manufacturers and retailers or as a manufacturer with a B2B sales function. If a distributor/manufacturer also has a B2C sales function, it should be required to apply separately for a retail licence.

For ease of reference, this distributor model will follow the same general structure as the retail framework.

Structure and Funding

As with the retail framework, there are some circumstances which should automatically prevent a business from being granted a distributor licence. These include:

- If the business has received an official warning, fine, prosecution or other enforcement action within the past two years.
- If the business has previously been caught trading vaping products without a licence.
- If the business-owner or Designated Premises Supervisor has faced a relevant criminal conviction in the past two years, is on a suspended sentence or is on probation.
- If the business distributes products in other categories without the appropriate licences and certifications.
- If the individual that the business puts forward as the Designated Premises Supervisor does not hold a personal licence.
- If the business is attempting to reapply within two years of having its licensed revoked

Application Process and Requirements

The application process for a distributor licence should function in essentially the same way as the retailer licence framework in that applications should be submitted and processed at the local authority level, with an opportunity for input from 'responsible authorities'.

In the case of distributors, applications should be made to the local authority of the area within which their main distribution centre/storage warehouse is located. As part of the application process, businesses should have to provide information such as:

- Contact information and address – including head office address.
- The legal entity which owns the business i.e., sole trader, limited company, plc etc.
- The intended opening date of the business or the date from which it intends to start distributing vaping products – if the business was already distributing vapes before the licensing system was introduced, this needs to be stated as well.
- Details of the 'Designated Premises Supervisor'.
- Actions the business has introduced, or plans to introduce, if not open at the time of application, to meet the compliance requirements for licence holders.
- If the business owns and operates more than one distribution centre/warehouse and basic information of each.
- The operational value/units sold per year – this is to establish the fee amount payable by the business



Designated Premises Supervisor/Designated Site Supervisor

As with retailers, distributors should have a Designated Premises Supervisor. In short, the DPS is the main point of contact for local government and the police and is responsible for the day-to-day running of the business.

Education and testing as part of the licence application

As part of the application process, there should be a short education video and multiple-choice test to ensure the business filling out the form has an understanding of the licensing laws and the compliance requirements for licence holders – this is reflective of the retail licensing framework.

Topics for distributors could include:

- Safety standards for the storage and transportation of vaping products and their constituent parts
- Identifying compliant and non-compliant products – includes understanding the function of the MHRA's notified products list
- Basic laws surrounding product requirements under TRPR i.e., nicotine concentration limits
- Relevant business requirements including EPR and WEEE obligations
- Good Distributor Practice guidelines

The information covered in the premises application should also be covered in full as part of the personal licensing qualification – as such, if the DPS is the one filling out the premises licence application, they should already be knowledgeable on these topics.

Accessibility and fairness

This should be reflective of the retail licensing framework.

Fee Structure and Renewal

As with the retail framework, the cost of a distributor licence should be paid annually. However, unlike retailers, the fee for distributor licences should be based on the operational value of the business and not issued on a premises-by-premises basis.

This means that a distributor would be required to pay for one licence, which would cover all its operations, as opposed to applying for an individual licence for each of its premises. The fee amount should be based on a sliding scale which increases with the number of units a business sells per year.

This structure ensures the cost of licensing is proportional to the size of the business and does not unduly benefit large distributors or discriminate against smaller distributors by having them pay the same flat rate.

The cost for a Designated Premises Supervisor to obtain a personal licence should be equal to that for alcohol – estimated at around £62 when you include the cost of a DBS check.

Allocation of Funds

The funding generated from fees and penalties should be ring fenced so they can only be used for purposes relating to the licensing scheme. As with the retailer framework, the funds should be divided between two key areas – enforcement and administration.

In the case of distributors, the Medicines and Healthcare products Regulatory Agency should play a role in ensuring licence holders are meeting compliance requirements.

Additional Funds

This should be reflective of the retail licensing framework.



Compliance Requirements for Licence Holders

The Medicines and Healthcare products Regulatory Agency has been involved in ensuring distribution sites are complying with Good Distribution Practice (GDP).

To summarise, GDP 'describes the minimum standards that a wholesale distributor must meet to ensure that the quality and integrity of medicines is maintained throughout the supply chain'. Some areas covered by GDP include:

- Personnel
- Storage
- Documentation
- Transportation

While no vaping product is approved as a medicine in the UK, these provisions could be used, where appropriate, to form the basic requirements for distributors under this licensing scheme. This is for two key reasons:

- E-cigarettes are recognised as a stop smoking tool and less harmful alternative to cigarettes – which kill 250 people in the UK everyday alone – and contain chemical constituents such as nicotine.
- The Medicines and Healthcare products Regulatory Agency – alongside other regulators and enforcement bodies - would be uniquely placed to help ensure vape distributors are meeting these requirements as it is included as a 'responsible authority' under this scheme and is the 'competent authority for the UK's notification scheme for nicotine containing vaping products in Great Britain and Northern Ireland'.

The MHRA is also an executive agency of the Department of Health and Social Care, which was identified as one of two ministerial departments which should be responsible for overseeing vape licensing in the UK.

The GDP provisions would, of course, have to be amended to ensure they are fit for purpose for the vape sector. There are also other industry specific requirements which would need to be imposed on distributors licensed under the scheme.

As well as avoiding any disqualifying factors for obtaining a licence, distributors should be required to comply with requirements such as:

- Ensuring all staff are trained in the proper handling and storage of e-cigarettes, e-liquids and batteries.
- Ensuring they only purchase and sell products which comply with provisions set out by the Tobacco and Related Products Regulations (TRPR).
- Only stocking and selling products which appear on the Medicines and Healthcare products Regulatory Agency's (MHRA) 'notified products list'.
- Ensuring all staff are educated on the basic TRPR requirements so they can identify if a product is not-compliant with UK regulations.
- Keep records of all transactions with manufacturers and retailers for at least six years - this is to ensure all products stocked and sold can be traced through the supply chain.
- Being aware of and complying with relevant environmental obligations.
- Not stocking and selling any products which could be deemed as child appealing – i.e., by using imagery from youth culture or using inappropriate names and descriptors



- Ensuring all marketing materials and promotional activities align with the advertising standards enforced by the ASA, including:
 - Marketing communications must not be likely to appeal particularly to people under 18, especially by reflecting or being associated with youth culture.
 - People shown using e-cigarettes or playing a significant role must neither be, nor seem to be, under 25.
 - Marketing communications must state clearly if the product contains nicotine. They may include factual information about other product ingredients.
 - Marketing communications must not encourage non-smokers or non-nicotine users to use e-cigarettes.
- Not owning or operating a business account on social media platforms which are disproportionately used by people under the age of 18 and without the ability to effectively age-gate and/or restrict access to minors, such as TikTok and Snapchat – even if these channels are not used to promote products.
 - If a business sells vaping products among a range of other product categories - i.e., a supermarket - the business should still be permitted to have social media accounts, but should make no reference to any of the vaping products it stocks on these platforms.
- Only selling to licensed retailers and reporting any instances where a non-licensed retailer attempts to make a purchase.

Vigilance from Licensees

As with retailers, licensed distributors should be expected to report any business which is suspected of trading without a licence or failing to uphold compliance requirements – i.e., dealing in illicit goods.

A channel of communication which allows licensed holders to report potential illicit activity directly to the relevant local authority, Trading Standards and the MHRA should be established as part of the scheme put forward in this framework.

At the same time, retailers which are found to be maliciously reporting other businesses– i.e., for commercial gain or to create a nuisance – should face potential punitive action.



Penalties and Enforcement

A licensing scheme is rendered ineffective without a robust, comprehensive and, critically, fair penalty and enforcement system which ensures distributors are meeting and upholding their responsibilities.

The penalties and enforcement system for the distributor licence scheme should function in the same way as the retail licensing framework, however, the fine amounts need to be increased to reflect the scale of distributors versus retailers and the impact they have on keeping illicit products out of the industry. To summarise, offences are divided into three categories with a fine amount based on severity. These are:

Category	Defining Parameters	Example Offences	Base Fine Amount
Category 1	Higher Culpability and Greater Harm	<ul style="list-style-type: none">Knowingly selling illicit or non-compliant vaping products	£25,000
Category 2	Higher Culpability and Lesser Harm or; Lower Culpability and Greater Harm	<ul style="list-style-type: none">Failing to train staff on the proper handling and storage of e-cigarettes and their constituent parts.	£10,000
Category 3	Lower Culpability and Lesser Harm	<ul style="list-style-type: none">Failing to keep transaction records for all purchases from wholesalers and sales to retailers	£5,000

This framework puts forward a four-strike penalty system with the fine amount increasing at every stage. If a retailer commits a fourth offence, they should face a fine of £100,000 - again increased to reflect the scale and market impact of distributors - regardless of the offence category and should have their licence revoked.

Other areas pertaining to penalties and enforcement covered by the retail licensing scheme which should remain the same in the distributor model are:

- Penalties for trading without a licence
- Fixed Penalty Notices for employees
- Designated Premises Supervisor Licence Revocation
- On-the-spot fines and the right to appeal
- Licence revocation and re-application
- Transparency at point of application

Governance and Oversight

As with the Licensing Act 2003, the vape licensing scheme should be administered at the local authority level, however, policy and laws surrounding this scheme should be overseen on a central government level to ensure that the same approach and standards are being upheld nationally.

The distributor licensing scheme should have the same governance and oversight structure as the retail licensing framework.





VI. NEXT STEPS

Next Steps

To effectively inform decision-makers about the merits of a retailer and distribution licensing scheme in addressing key industry challenges, and foster a solid foundation of support for its widespread adoption, the report will be disseminated to all Members of Parliament, working members of the House of Lords, Members of the Senedd, Members of the Scottish Parliament and senior civil servants.

This outreach will be particularly important as we move towards officially launching this framework at the Houses of Parliament. By choosing to launch the report at Parliament, we hope to generate political momentum and secure commitment from key stakeholders. This launch event will provide an opportunity for attendees to directly ask questions, receive constructive feedback, and collectively shape a vision for the successful implementation of the vape licensing scheme.

Following the launch, we will continue the conversation with Members of Parliament, Peers, and senior civil servants. Planned meetings will delve into the key aspects outlined in this report, enabling us to address stakeholders' concerns and ensure that decision-makers have a detailed understanding of the proposed scheme. Effective collaboration will be of the utmost importance.

To give a clear insight into the initial investment needed to implement this framework, and ensure the funds generated can effectively fund enforcement action, it is also recommended that a research institute is commissioned to conduct a thorough financial analysis of this scheme. Such independent scrutiny will enhance the credibility of a retail and distributor licence model, instilling further confidence not only in decision-makers but also in the general public.

