



This guidance document contains Assured Advice under the ACS Primary Authority Scheme. For more details visit www.acs.org.uk/assured-advice

ACS | advice

SELLING VAPES RESPONSIBLY

This guide explains how to source and sell vapes (otherwise known as e-cigarettes) responsibly. These are products that heat a nicotine containing liquid to generate an aerosol.

Vapes must be notified to the MHRA before being legal to place on the UK market. When sourcing new products, check the Notified Product lists on the MHRA website at <https://cms.mhra.gov.uk/ecig-new>. If a product is not listed on the MHRA website in the Notified Products List, it is not allowed to be sold in the UK.

1. HOW TO RECOGNISE LEGITIMATE PRODUCTS

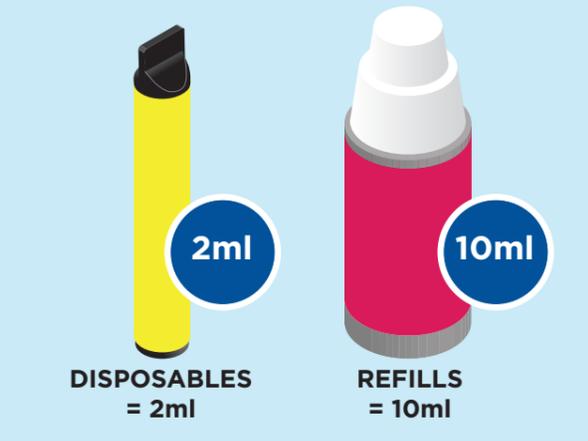
There are strict requirements for vapes that are allowed to be placed on the UK market. Check the following to ensure the products you stock are legitimate:

The maximum tank size is 2ml. This is equivalent to 600-650 puffs for disposables.

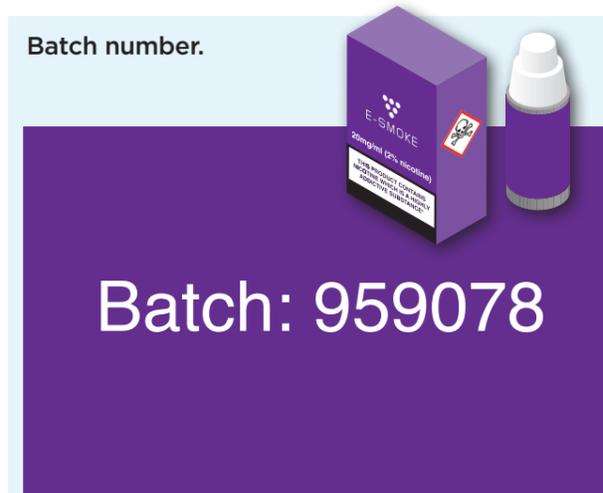
Products advertising significantly more usage than this are illegal.



The maximum size of refill containers is 10ml.



Batch number.



Recommendation to keep the product out of the reach of children.

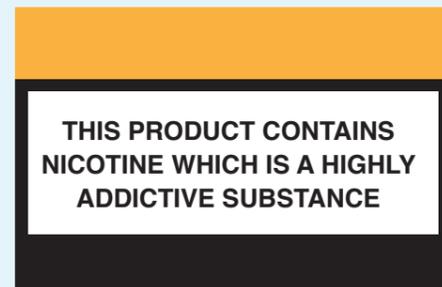


The maximum nicotine content allowed for vapes is 20mg/ml.



Health warnings must cover 30% of the front and back of the pack.

The health warning must read:



Any variation on this wording is not allowed.

Offers and discounts, product safety/health claims are prohibited on packs.



Vapes that are charged from the mains electrical supply should bear the CE mark or UKCA mark. The UKCA (UK Conformity Assessed) mark became part of UK law when the UK left the EU and must be included on all packaging from January 2023 onwards]



List of ingredients in nicotine-containing liquid, if present.

3x Flavoured eLiquid
INGREDIENTS
 Vegetable Glycerine (<80%)
 Monopropylene Glycol (<20%)
 Flavouring: cookie, cherry, almond.
 0.6% Nicotine

The product must indicate the nicotine content and delivery per dose.

Nicotine content
6-8 mg per
cartridge

All vapes and refill containers must be tamper-evident and have child-resistant packaging. Electronic/electrical products must be disposed of separately from household waste, more information about recycling vapes and WEEE regulations is available on page 7.



Packaging must also contain the manufacturer or importer name and contact details.

Imported and distributed by
E-Smoke Ltd
 90 Eastern Road,
 Slough SL3 1XS
 Tel: 01753 100100
 Email: info@e-smoke.co.uk

2. PREVENTING UNDERAGE SALES

It is illegal to sell vaping products to anyone under 18. Anyone doing so is committing an offence, and both the business owner and staff members who made the sale can be penalised.

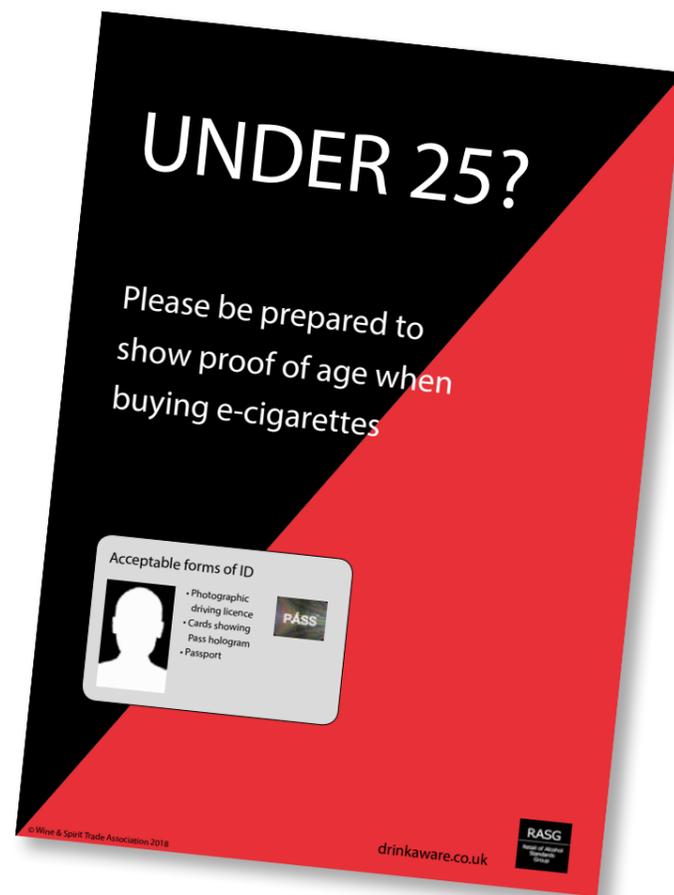
Challenge 25

ACS recommends the use of Challenge 25 policies for all underage sales.

Challenge 25 is a store policy based on two simple principles:

1. All staff serving customers should be trained to 'think 25'. This means if a customer is seeking to buy an age restricted product (of any kind), the staff member should ask themselves the question - 'does the person in front of me look like they might be under the age of 25 years?' If the answer is yes, then they should ask the person for a valid proof of age. If the identification confirms they are over the legal age of purchase for that product, then it can be sold to them.
2. The store policy is clearly communicated to customers, usually through the use of visible in-store signage.

Posters are available to download and print from <https://www.acs.org.uk/challenge25>



3. PROXY SALES

It is an offence for an adult to purchase nicotine inhaling products on behalf of someone under age. This is commonly called a 'proxy sale'. You should consider adopting a common approach to identifying and preventing proxy sales across all age restricted products.

It can be very difficult to know if an adult intends to buy an age restricted product for or on behalf of someone who is underage. Therefore, you are only expected to act when an obvious proxy sale is taking place. More information on common scenarios that retailers may encounter when dealing with attempted proxy sales is available in the ACS Assured Advice guide on Preventing Underage Sales.

To mitigate proxy purchasing, some manufacturers might enforce product-quantity limits that restrict bulk orders that may be distributed to those underage. Check and comply with manufacturer product-quantity limits if they have such policies in place.



4. ONLINE SALES

For retailers that sell vapes online through a delivery service or online ordering platform, ACS recommends conducting ID checks before any goods are delivered to a customer. More information about selling age restricted products online is available in the ACS Assured Advice guide on Preventing Underage Sales.

5. ADVERTISING

Retailers that advertise vapes should consult advice on the restrictions on advertising e-cigarettes and refill containers from the Department of Health and Social Care and from the Advertising Standards Authority.

🇬🇧 MEDICATED E-CIGARETTES

- E-cigarettes which are licensed as medicines are exempt from the age restriction and can be sold to persons under 18.
- E-cigarettes that contain over 20mg/ml of nicotine are required to be licensed as medicines.
- You can check if e-cigarettes you stock are licensed as medicines by visiting the Medicines and Healthcare products Regulatory Agency (MHRA) website here: www.gov.uk/guidance/e-cigarettes-regulations-for-consumer-products

6. UK NATIONS



ENGLAND AND WALES

The Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations 2015 came into effect on 1 October 2015 and makes it an offence:

- For retailers to sell vapes to anyone under the age of 18. (Vapes which are licensed as medicines are exempt from the age restriction – see next page).
- For the proxy purchase of vapes.

Sanctions

- If a retailer sells an vapes to someone under the age of 18, both the retailer and staff member who made the sale are liable on summary conviction to a fine not exceeding level 4 (£2,500 at time of publication) on the standard scale.
- The fixed penalty for the proxy purchase of vapes is £90. The fine applies to the person who purchases or attempts to purchase for someone under the age of 18.

SCOTLAND

The Health (Tobacco, Nicotine Etc. and Care)(Scotland) Act makes it an offence:

- For retailers to sell vapes to anyone under the age of 18. (Vapes which are licensed as medicines are exempt from the age restriction – see below).
- For failing to implement an age verification policy for the sale of vapes.
- For the proxy purchase of vapes.
- To sell vapes from a premises which is not registered on the Scottish Tobacco Retailers Register.
- For any person under the age of 18 to sell a tobacco product, cigarette papers, or Nicotine Vaping Product without authorisation from a person over the age of 18.

The Act also implements further restrictions on vapes media advertising which is yet to be confirmed by Scottish Ministers

Sanctions

- If a member of staff sells vaping products to someone under the age of 18, they are liable on summary conviction to a fine not exceeding level 4 (£2,500 at time of publication) on the standard scale.
- If a retailer fails to implement an age verification policy for the sale of vapes, they are liable on summary conviction to a fine not exceeding level 2 (£500 at time of publication) on the standard scale.
- If a retailer allows staff under the age of 18 to sell a tobacco product, cigarette papers, or Nicotine Vaping Product without authorisation they are liable on summary conviction to a fine not exceeding level 1 (£200 at time of publication) on the standard scale.
- A person who purchases or attempts to purchase vapes for someone under the age of 18 is liable on summary conviction to a fine not exceeding level 5 (£5,000 at the time of publication) on the standard scale.
- A retailer who continues to sell vapes without registering to sell vapes is liable on summary conviction to a fine not exceeding £20,000, imprisonment for a term not exceeding 6 months, or both.

7. BEST PRACTICE: RECYCLING VAPES

All retailers selling vapes, or other Electrical and Electronic Equipment (EEE), must provide an option for customers buying the product to dispose of their old vape products. This is a requirement of [Waste Electrical and Electronic Equipment Regulations 2013 \(WEEE\)](#). The definition of EEE is available [here](#). E-cigarettes are included under [Category 7](#). Retailers have two options for offering recycling services to customers for vaping products, this depends on the total value of the sales you make of EEE by your business.

1. If the total annual value of the EEE you sell is worth **under £100,000** you must sign up to the Distributor Takeback Scheme (DTS).
2. If the total annual value of the EEE you sell is worth **over £100,000** you must offer an in-store takeback service.

Distributor Takeback Scheme (DTS)

(Only available to businesses that have annual sales of EEE under £100,000)

The DTS is operated by [Valpak Retail WEEE Services](#) (on behalf of the Department for Environment, Food and Rural and Affairs) and allows business that sign up an exemption from the in-store takeback requirement.

You must pay a fee that covers your WEEE obligations until 31 December 2023. The amount you pay depends on the size of your business and how much electricals you sell.

Under the DTS, retailers are required to:

- Display [signage](#) in stores about alternative recycling requirements.
- Keep a record of what information you give to your customers about where they should take their electricals.

You can sign up to the DTS here: <http://dts.valpak.co.uk/>

In-store Takeback Service

(Only required if your business have annual sales of EEE over £100,000)

Retailers must offer in-store takeback services for EEE on a like for like basis. You must provide this service to everyone for free, clearly communicate this to customers and give customers at least 28 days to bring back their vape product or other EEE.

Retailers can transport EEE waste collected themselves with a waste license, but most retailers engage with a 'compliance scheme'; a commercial service provider that will supply you with the equipment to collect EEE in stores and pick up EEE from stores. An authorised list of compliance scheme providers is available [here](#).

Storing vapes

Vapes should be collected and stored separately from other small EEE and batteries in a cool dry place.

Keep records

You must keep records of all electrical and electronic waste that you collect and dispose of and how you tell customers about your take back scheme. You can work with your compliance scheme to do this. All records should be kept for four years. Alternatively you can track the takeback of EEE using a template [here](#).

Communicating Take-back of Vape Products

To communicate take-back of vape products, you must include consumer messages on retailer take-back at the till, point of sale where you sell electricals, on your website content, and you should provide a QR code/web address to direct people to your website. Material Focus in partnership with OPSS have produced an approved communications toolkit when you can find key editable assets that you can adapt to your branding and store. These assets are available here: <https://www.materialfocus.org.uk/account/>

Penalties

If you fail to comply with the waste electrical and electronic equipment (WEEE) regulations, you can be prosecuted and fined up to £5,000 at a magistrates' court, or get an unlimited fine from a Crown Court.

ABOUT THIS GUIDE

This guide is provided by the Association of Convenience Stores in consultation with Buckinghamshire and Surrey Trading Standards. It was last updated in January 2023. Please refer to the ACS website for the most current version of this guidance.

ACS Primary Authority Scheme

This advice was developed by ACS, Buckinghamshire and Surrey Trading Standards, Woking Borough Council and Surrey Fire and Rescue Service; as part of a dedicated primary authority scheme. This means that all the advice that has this mark against it is 'Assured Advice'.

Assured Advice means that if you adopt this policy in your business, then it must be respected by all other local authorities and they cannot ask you to adopt a different policy.



This guide covers a range of different issues of best practice and law. Those that qualify as assured advice are marked by this hallmark.

To benefit from assured advice you must sign up to the ACS scheme. All ACS members can sign up to the ACS Primary Authority Scheme for details of how to join up visit www.acs.org.uk/advice

Relevant legislation and additional guidance

- **Tobacco and Related Product Regulations (2016):**
<https://www.legislation.gov.uk/ukxi/2016/507/contents/made>
- **MHRA Notified Products List:**
<https://cms.mhra.gov.uk/ecig-new>
- **MHRA Retailer Guide:**
<https://bit.ly/3nnvUlj>
- **Yellow Card Reporting System:**
<https://yellowcard.mhra.gov.uk>
- **Restrictions on advertising electronic cigarettes (DHSC):**
<https://www.gov.uk/government/publications/proposals-for-uk-law-on-the-advertising-of-e-cigarettes/publishing-20-may-not-yet-complete>
- **ASA Code Section 22, Electronic Cigarettes:**
https://www.asa.org.uk/type/non_broadcast/code_section/22.html

CONTACT

For more details on this guidance, contact a member of the ACS team on 01252 515001.

For more details on ACS:

Visit: www.acs.org.uk

Call: 01252 515001

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