



Knowsley Council

Single-Use Vapes

Enforcement Policy

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TITLE	<p>Title: Disposable Vapes Enforcement Policy</p> <p>Publication Date:</p> <p>Document Type: Policy</p> <p>Version Number: One</p> <p>Brief Summary: This is a new Policy which sets out the approach that the Council will take in enforcing the provisions of the Environmental Protection (Single-Use Vapes) (England) Regulations 2024. This legislation is designed to protect the environment from the impact associated with littering of single-use vapes by prohibiting the supply of such products. The policy sets out the sanctions that the Council can use to deal with non-compliance and the situations in which they are likely to be applied. It also describes the options that are available to businesses found to be in breach of the regulations.</p>
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1.0 Introduction

- 1.1 The Environmental Protection (Single-Use Vapes) (England) Regulations 2024 (“the Regulations”) prohibit the supply in the course of a business of single-use or disposable vapes. This is aimed at protecting the environment by preventing littering. Single-use vapes cannot be recycled and are frequently disposed of incorrectly often ending up in landfill. When discarded in residual waste, single-use vapes can cause fires due to the presence of lithium-ion batteries. This can endanger waste operatives and infrastructure, including refuse collection vehicles and waste processing facilities. Additionally, improper disposal contributes to environmental degradation, threatening biodiversity, contaminating soil and polluting waterways. The ban is also aimed at tackling rising rates of youth vaping and protecting children from harm.
- 1.2 This policy sets out the approach that Knowsley Council (“the Council”) will take in enforcing the provisions of the Regulations. It includes the range of sanctions that are available and the situations when they are likely to be applied. It also describes the options that are open to businesses found to be in breach of the Regulations and the consequences of non-compliance.
- 1.3 Action taken under this policy will be in accordance with the principles of the Regulators’ Code and any statutory guidance issued by the Government. It is consistent with the Council’s Enforcement Policy. All authorised officers of the Council will have regard to this policy when exercising their functions under the Regulations.
- 1.4 The policy will ensure transparency, consistency, fairness and proportionality in applying the sanctions available and satisfies the requirement of Regulation 13 of the Regulations to publish guidance about the use of civil sanctions.

2.0 Legal Requirements

- 2.1 The Regulations prohibit the sale or supply of single-use vapes in the course of a business. Single-use vapes are also known as disposable vapes. This applies to all single-use vapes whether or not they contain nicotine.
- 2.2 The definition of supply is wide ranging and includes giving single-use vapes away without any transfer of money. It is also an offence for a person to offer to supply such vapes or for a person to have them in their possession ready for supply.
- 2.3 The Regulations also make it an offence for a person, without reasonable excuse, to fail to comply with any requirement of an authorised officer in exercise of their powers or to otherwise obstruct an officer.

2.4 The Regulations apply to all businesses that sell or supply single-use vapes. This includes:

- Retailers such as convenience stores, market stalls, petrol stations, specialist vape shops and supermarkets
- Manufacturers
- Wholesalers
- Importers
- Healthcare settings
- Stop smoking services

3.0 Definition of Single-use Vapes

3.1 A vape is single-use if it:

- Has a battery that cannot be recharged, or
- Is not refillable

3.2 In contrast, a reusable vape must have:

- A rechargeable battery
- A refillable container that holds the vaping e-liquid (via refill bottle or pods)
- A removable and replaceable coil (if the vape contains a coil)

3.3 Refills (pods or e-liquid refill bottles) and coils, whether part of a replacement pod or tank or not, should be separately available for users to buy.

4.0 Sanctions Available

4.1 A range of sanctions are available to the Council for the offences under the regulations described in Paragraph 2. This includes prosecution in the most serious of circumstances. The factors that would lead to the Council considering instituting legal proceedings include:

- The supply of a single-use vape to a person under the age 18 years
- A person committing a second offence
- A person in possession of a large quantity of single-use vapes
- Previous history of non-compliance
- Obstruction of officers or aggression shown towards them

4.2 However, a range of other enforcement options are available to the Council which include:

- Fixed Monetary Penalties Compliance Notices
- Stop Notices
- Enforcement Undertakings
- Non-Compliance Penalties
- Enforcement Cost Recovery Notices

5.0 Fixed Monetary Penalties

- 5.1 As an alternative to prosecution, the Council has the power to issue a **fixed penalty notice** in relation to an offence under the Regulations. This is for an amount of £200 and will be issued even for a first offence unless there are aggravating circumstances as mentioned in Paragraph 4.1. The Council must be satisfied beyond reasonable doubt that an offence has been committed.
- 5.2 In situations where the Council is considering a fixed monetary penalty then it will first issue a **Notice of Intent**. This will inform the person of the action that the Council proposes to take and the reason why. It will include the value of the fine.
- 5.3 A person who is issued with a Notice of Intent has 28 days to make any relevant objections or representations which should be made in writing to: tradingstandardsteam@knowsley.gov.uk
- 5.4 The Council will consider any objections and representations received before deciding whether or not to issue the fixed penalty notice. The decision will be made 28 days after issue of the Notice of Intent. The fixed penalty notice will include:
 - The grounds for imposing the penalty
 - The amount to be paid
 - How payment must be made
 - The period within which payment must be made
 - The consequences of failing to pay the fine
 - How to appeal the decision to issue the penalty
- 5.5 A person may clear their liability by payment of £100 during the 28-day period.

6.0 Compliance Notices

- 6.1 In circumstances where the Council considers it the most appropriate method to ensure that further offences are not committed then it may issue a **Compliance Notice**. This is a notice that informs a person of the action they must take and the time period within which they must comply with the Council's instructions.
- 6.2 In situations where the Council is considering a Compliance Notice, then it will first issue a Notice of Intent. This will inform the person of the action that the Council proposes to take and the reason why and will include details of the action that the Council requires the person to take.
- 6.3 A person who is issued with a Notice of Intent has 28 days to make any relevant objections or representations which should be made in writing to: tradingstandardsteam@knowsley.gov.uk

6.4 The Council will consider any objections and representations received before deciding whether or not to issue the Compliance Notice. The decision will be made 28 days after issue of the Notice of Intent. The Compliance Notice will include:

- The grounds for imposing the Notice
- The consequences of failing to comply with the Notice
- How to appeal the issue of the Notice

7.0 Stop Notices

7.1 Where deemed appropriate, the Council may serve a **Stop Notice** on any person who it reasonably believes is carrying on an activity that is an offence or is likely to involve the commission of an offence under the Regulations. In addition, the Council must have reasonable belief that such activity:

- Is causing significant harm to the environment, or
- There is a significant risk of it causing such harm, and
- Such harm could include the health of animals

7.2 The Stop Notice will explain the steps required to remove or reduce the harm or risk of harm to the environment. It will also include the reason that the Council has issued the notice, the consequences of failing to comply with the notice and how the decision to issue the notice can be appealed.

7.3 Failure to comply with a Stop Notice is a criminal offence punishable by up to two years in prison and/or a fine.

7.4 When the Council is satisfied that the recipient of a Stop Notice has taken the steps specified in the notice then it is required to issue a **Completion Certificate** that confirms this. Once issued, the Stop Notice will end.

7.5 The recipient of a Stop Notice can request a Completion Certificate at any time. The Council must decide whether or not to issue one within 14 days and will provide a written answer if it determines not to issue the certificate.

8.0 Enforcement Undertakings

8.1 Any person suspected of committing offences under the Regulations can offer to take action to ensure that offences are not committed in the future. They can also offer to put right any damage caused to another person or to compensate them for the damage. In addition, they can offer to correct any damage caused to the environment by their actions.

8.2 This offer is known as an **Enforcement Undertaking**. The Council will consider whether or not to accept an Enforcement Undertaking on a case-by-case basis.

8.3 When the Council is satisfied that the steps identified in the Enforcement Undertaking have been completed then it will issue a Completion Certificate confirming this. A person who has given the undertaking can ask for a certificate at any time. The Council must decide whether to issue one within 14 days and will provide a written answer if it determines not to issue the certificate.

9.0 Third Party Undertakings

9.1 A person on whom a Notice of Intent is served may offer an undertaking as to action to be taken by that person to benefit any third party affected by the offence. This could include the payment of a sum of money.

9.2 The Council may accept or reject the **third-party undertaking**. If accepted, then the Council will take this into account in determining whether or not to serve a Fixed Penalty Notice or Compliance Notice.

10.0 Non-Compliance Penalties

10.1 The Council may recover any costs from a person who fails to comply with a Compliance Notice, Third Party Undertaking or Enforcement Undertaking. In these circumstances, the person will be issued with a penalty.

10.2 The Council will issue the person with a notice which identifies:

- The reasons why the penalty is being imposed
- The amount to be paid
- Methods of payment
- Period in which payment must be made
- The right to appeal
- The consequences of non-payment
- The circumstances in which the Council might reduce the penalty

10.3 The Council will seek 100% of all the costs it incurs in fulfilling the remaining requirements including clean up and disposal costs. Where more than one person has been identified as being responsible for the non-compliance then the Council will treat all persons as being jointly and individually liable for all of the costs.

10.4 If the requirements of the Compliance Notice or the Third-Party Undertaking are complied with before the deadline for payment is reached, then the penalty will be cancelled.

11.0 Enforcement Cost Recovery Notices

- 11.1 The Council may serve an **Enforcement Cost Recovery Notice** on a person on whom a Compliance or Stop Notice has been served. This requires the person to repay the enforcement costs incurred by the Council prior to the issue of the notice.
- 11.2 Enforcement costs will be those that were necessary in each case and will include:
 - Investigation costs
 - Administration costs
 - Costs of obtaining legal advice
 - Cost of obtaining expert advice
- 11.3 The Enforcement Cost Recovery Notice will contain the following information:
 - The reason the notice has been issued
 - The amount to be paid
 - A breakdown of the costs
 - Methods of payment
 - The consequences of failure to comply
 - The right to appeal

12.0 Withdrawing or Amending a Notice

- 12.1 The Council may at any time withdraw a notice, reduce the amount of any penalty in a notice or change the actions required to ensure compliance. In such cases, the person will be notified in writing.

13.0 Appeals

- 13.1 The person who receives a notice may appeal in writing to the First Tier Tribunal General Regulatory Chamber (see paragraph 19) on the following grounds:
 - **Fixed Penalty Notice/ Compliance Notice:** An error in fact, an error in law or the decision to issue the notice was unreasonable
 - **Stop Notice:** An error in fact, an error in law, the decision to issue the notice was unreasonable or that an offence under the regulations was not committed
 - **Completion Certificate (refusal to issue):** An error in fact, an error in law or the decision was unreasonable
 - **Non-Compliance Penalty:** An error in fact, an error in law, the decision was unreasonable, or the amount of the penalty was unreasonable

- **Enforcement Cost Recovery Notice:** The decision to require payment of costs or the amount of those costs
- **Appeal against Compensation Decision** (see paragraph 13.2): A person may appeal against a decision not to award compensation, or the amount of compensation awarded.

13.2 If a Stop Notice is withdrawn or amended by the Council on the grounds that the decision to issue it was unreasonable or any steps specified in the notice were unreasonable then the Council must compensate the person. This is also the case when a Completion Certificate is deemed to have been unreasonably refused.

14.0 Non-Payment of Penalties

14.1 The Council may choose to recover unpaid penalties as a civil debt by registering a claim in the county court or by applying to the court for an order that enables the payment to be enforced by:

- A warrant of control – this allows a county court bailiff to take control of goods or money to the value of the amount to be recovered
- A charging order - this places a charge on property to enable the debt to be recovered from the proceeds of sale
- A third-party debt order- this requires a third-party to pay the outstanding debt from the debtor's funds.

15.0 Publication of Information

15.1 From time to time the Council is required to publish details of the cases in which penalties have been issued under the Regulations.

16.0 Review of this Policy

16.1 This policy will be reviewed on a regular basis to ensure that it reflects current Government guidance and best practice. The Council will ensure that all relevant officers are familiar with this policy and implement it in their enforcement activity.

17.0 Comments

17.1 If you wish to contact the Council to share views or comments on this policy or ask a question, then please use the contact details below:

- Web: [KMBC - Have your say \(mendixcloud.com\)](https://mendixcloud.com)
- Post: Customer Liaison Team, Knowsley Council, Archway Road, Huyton L36 9UX
- Telephone: 0151 443 4712

18.0 Availability

18.1 This policy is available on the Council's website. If you wish to receive this policy in another format, then please use the details above.

19.0 Links

Government Guidance: [Single-use vapes ban: information for businesses - GOV.UK](https://www.gov.uk/government/publications/single-use-vapes-ban-information-for-businesses)

Appeals: [First-tier Tribunal \(General Regulatory Chamber\) - GOV.UK](https://www.gov.uk/government/publications/first-tier-tribunal-general-regulatory-chamber)

Corporate Enforcement Policy: [Place | Knowsley Council](https://place.knowsley.gov.uk/Place/Policy/Corporate-Enforcement-Policy)