



Protecting policies from the tobacco industry: Guidance to support Trading Standards in complying with Article 5.3 of the WHO Framework Convention on Tobacco Control

Prepared by the Illicit Tobacco Partnership
and endorsed by the Chartered Trading Standards Institute
March 2026



Why has this guidance been produced?

Article 5.3 of the World Health Organisation (WHO) [Framework Convention on Tobacco Control](#) (FCTC), to which the UK is a Party, requires the Government and public bodies to protect public health policies with respect to tobacco control 'from commercial and other vested interests of the tobacco industry.' WHO has produced specific [guidelines](#) to support compliance.

This guidance, developed by the [Illicit Tobacco Partnership](#) in consultation with the Department of Health and Social Care and HM Revenue & Customs and endorsed by the Chartered Trading Standards Institute (CTSI), is designed to illustrate best practice and help local authority Trading Standards services deliver tobacco control policies in line with the UK's obligations as a Party to the WHO FCTC and the [Illicit Trade Protocol](#). It is part of a suite of resources to support evidence-based approaches, including a [PR guide](#) on messages to use and avoid, all of which are available on the Illicit Tobacco Partnership website.

Trading Standards are encouraged to share this guidance with local authority partners, including Directors of Public Health and local authority elected members, and work with them to support compliance.

HMRC [guidance](#) on Article 5.3 notes that *"HMRC should limit interactions with the tobacco industry, including any person or organisation that is likely to be working to further the interests of the tobacco industry. In the event interactions are required, these should be conducted with maximum transparency to demonstrate compliance with the FCTC. Such interactions must occur only when and to the extent strictly necessary to enable effective regulation of the tobacco industry and tobacco products."*

Department of Health and Social Care [guidance](#) for government engagement with the tobacco industry should be read and followed by all UK government officials who interact with either the tobacco industry or people who have affiliations with the tobacco industry.

The Local Government Association has published [guidance](#) on how local councils can manage interaction with the tobacco industry, in line with the requirements of Article 5.3 and its guidelines which should be read and followed by all local government officers and elected representatives who may be approached to interact with either the tobacco industry or people who have affiliations with the tobacco industry.

The Chartered Trading Standards Institute's policy on engagement with the tobacco industry states that: *"Contact with the tobacco industry will be limited to the purpose of tackling counterfeit tobacco and we will engage in a transparent and open way. [We will] ensure that we are compliant with FCTC and will continue to review this."*

Why do policies need to be protected from the tobacco industry?

All tobacco, legal and illegal, will kill up to two thirds of long term smokers, causing life-limiting conditions such as cancer, COPD, heart disease and stroke. As England's Chief Medical Officer has said, lung cancer is caused ['almost entirely' for profit](#). Tobacco use remains the leading cause of premature death and preventable disease and the cost of tobacco hits poor communities hardest, where rates of smoking are highest. In England every year there are around 64,000 premature deaths caused by tobacco with smokers losing years of active life through tobacco-related diseases.

Tobacco companies are known for their efforts to appear 'socially responsible'. Of relevance to Trading Standards is the 'support' the industry offers to deliver tobacco enforcement, often designed to distract attention away from the damage their products cause and to position themselves as 'part of the solution'.

As the Tobacco and Vapes Bill makes its way through Parliament, Trading Standards services are benefitting from new roles such as Regional Illegal Tobacco Officers and tobacco and vapes apprentices, as well as significant extra funding through Operation CeCe, provided to HMRC as part of the Government's plans for a [Smokefree Generation](#). It is more important than ever to ensure that policies and activity are protected from the vested interests of the tobacco industry and its affiliates.

How should Trading Standards respond when contacted by the tobacco industry?

Trading Standards services are a vital part of tobacco control efforts and as such are a common 'route in' for tobacco companies to attempt to undermine local authority tobacco control policies. When this happens, Trading Standards must ensure that they are complying with Article 5.3 of the FCTC. Sometimes it is not clear that it is the tobacco industry making the approach: industry funded groups and public relations agencies have also been known to make contact with local authorities.

A useful database of industry 'front groups' can be found on the STOP website [here](#). PR and other agencies seeking to make contact with Trading Standards on tobacco matters should always be asked to disclose their clients in case they are working on behalf of a tobacco company.

The tobacco industry's only role in tobacco enforcement is to comply with any and all legislation designed to reduce the harm caused to children and adults.

The tobacco industry's only legitimate role in tackling illicit tobacco is limited and clearly defined:

- **An obligation to co-operate when their products are diverted into illicit channels**
- **When seized illicit tobacco products are suspected to be counterfeit – not non-UK duty paid or brands with no legal market in the UK – and a Section 9 statement from the relevant brand holder is required for prosecution.**

The following principles, adapted and developed from the legal advice sought by CTSI, outline best practice for Trading Standards compliance with Article 5.3:

- Decline offers of support from and meetings or partnerships with the tobacco industry, citing conflict with the guidelines on Article 5.3 of the FCTC which [applies across UK Government](#) including local authorities and any person acting on behalf of local authorities.
- Be transparent: document and make publicly available any contact with the tobacco industry.
- Any contact should be as narrow as possible to achieve the outcome required.
- Let public health colleagues know about any approaches from the tobacco industry.

What about other public regulatory and enforcement bodies e.g. police forces?

All UK public bodies — including police forces — are bound by Article 5.3 of the WHO Framework Convention on Tobacco Control, which requires interaction with the tobacco industry to be restricted to what is strictly necessary for the purpose of regulation. In this context, non-essential interaction with tobacco manufacturers, including attending industry-provided training sessions or sharing intelligence unnecessarily, would constitute a breach of Article 5.3 and carries reputational risk. This position applies equally to police forces and local authorities. There are compliant alternatives available and regional Trading Standards organisations can facilitate equivalent training and operational support without engagement with the tobacco industry. This position should be visible at both PCC and Chief Constable level.

Below are some common scenarios that are experienced by Trading Standards – and at times, other enforcement bodies e.g. the police – along with guidance on responding based on best practice principles. This guidance does not preclude local authorities and others from going further in terms of protecting public health from tobacco industry interference, and advice in some scenarios can apply to others.

Common scenarios and relevant guidance

[The tobacco industry requests a meeting with your Trading Standards service](#)

[The tobacco industry offers support to tackle illicit tobacco](#)

[The tobacco industry offers – or asks for – intelligence on illicit tobacco, underage sales or other tobacco or related products regulations](#)

[The tobacco industry offers training support on tobacco, vapes or other nicotine products](#)

[The tobacco industry offers support to tackle underage sales](#)

[You are asked to provide a quote by the tobacco industry/media to accompany an article promoting the tobacco industry role in tobacco control](#)

[The tobacco industry reports that it has been working in partnership with your local authority](#)

[The tobacco industry makes an approach in relation to vape regulations](#)

[The tobacco industry makes an approach in relation to nicotine pouches](#)

[You are invited to attend or take part in a forum to discuss vaping enforcement](#)

[You need to procure a third party supplier to support enforcement work](#)

[The tobacco industry requests a meeting with your Trading Standards service](#)

- Article 5.3 guidelines state that “*Parties [in this case, Trading Standards] should interact with the tobacco industry only when and to the extent strictly necessary to enable them to effectively regulate the tobacco industry and tobacco products*”. If the meeting is deemed ‘strictly necessary’, local authorities should ensure that such interactions are transparent, for example conducted in public, publishing a notice of interactions, and disclosing records of such interactions to the public.
- Trading Standards should record in a document the decision-making process relating to the engagement, showing that Article 5.3 guidelines were considered and setting out the reasons that engagement for certain limited ends would aid the implementation of the relevant public health policies. An exception can be made for requests for a Section 9 statement which should be recorded internally (see next section).
- Care must be taken to ensure that potential risks of engagement are considered. Make it a requirement of any contact that the industry cannot use any engagement for promotional purposes either in public, or with policy makers or public bodies.

[The tobacco industry offers support to tackle illicit tobacco](#)

- One of the few instances in which the tobacco industry has a role in tackling the illicit tobacco trade is when the illicit tobacco products concerned are counterfeit. The Trade Marks Act 1994 places a statutory duty on Trading Standards to respond and deal with such matters. In these circumstances the relevant tobacco company or their assigned agent can, as the holder of the relevant trade mark, state categorically that a specific product is a genuine brand manufactured by them or a counterfeit version of their own product after a seizure has been made.

Such a witness statement, known as a Section 9 statement, supported by the related Trade Marks Certificate, would be required for prosecution and can be obtained in most cases by posting seized products to the company concerned for examination. This situation does not relate to products that are non-UK duty paid or brands with no legal market in the UK.

Best practice recommends that it is unnecessary for a brand holder or other tobacco industry representative to be present during warrants or to visit local authority officers to examine the seizures. This will safeguard the local authority against the perception of a real or potential partnership or cooperation with the tobacco industry.

- There are a range of alternative offences to the Trade Marks Act which can be pursued, including using regulations relating to Reduced Ignition Propensity cigarettes, labelling and packaging requirements under the Tobacco and Related Products Regulations 2016, the Standardised Packaging of Tobacco Regulations 2015, the Tobacco Products (Traceability and Security Features) Regulations 2019 or one of the banned practices under Schedule 20 of the Digital Markets, Competition and Consumers Act 2024) and licensing provisions. These alternative offences do not require tobacco industry involvement.

The tobacco industry offers – or asks for – intelligence on illicit tobacco, underage sales or other tobacco or related products regulations

- Tobacco-related intelligence offered by the tobacco industry can be submitted via the Trading Standards Regional Intelligence Analyst through secure channels where it can be put on the intelligence database, checked for cross-local authority border links and considered along with all other intelligence received. This way, local Trading Standards are protected from claims of partnership working with the industry.
- If the tobacco industry asks for information about recent enforcement activity – for example the brands that have been seized in a raid – there is no obligation to provide it. Doing so risks unnecessary contact and is likely only to serve industry interests rather than the interests of tackling the illicit tobacco trade. The only time that the tobacco industry needs to be sent information on brands seized is if a Section 9 statement is required. Even then, there are alternative enforcement routes (see above).

The tobacco industry offers training support on tobacco, vapes or other nicotine products

- Refuse the offer: training needs on tobacco, vapes or other non-medicinal nicotine products can be discussed with the Trading Standards Regional Co-ordinator, the Regional Illicit Tobacco Officer or with the Chartered Trading Standards Institute without any recourse to the tobacco industry.
- Tobacco companies' interests relate only to the protection of their own brand, rendering offers of training by the tobacco industry on trademarks, or products which they don't produce, meaningless.
- There are many other issues that Trading Standards face when delivering tobacco enforcement which are not brand-related, for example, Organised Crime Group networks, continually developing methods of working, complex and deliberately opaque supply chains, legislation, track and trace provision, security features, vape regulations and so on. The relevant public agencies – such as HMRC, the police and the MHRA – are the only legitimate source of support and information on these areas

The tobacco industry offers support to tackle underage sales

- Point out that the enforcement of age restricted sale legislation under the Children and Young Persons Act 1933 (as amended by the Children and Young Persons (Protection from Tobacco) Act 1991) places a duty on the local authority to consider annually the extent to which it is appropriate to carry out a programme of enforcement action. It is therefore a function of the Trading Standards service, not the tobacco industry, to take the lead in gathering intelligence and taking requisite action.
- The tobacco industry has a history of running 'youth smoking prevention campaigns', diverting attention from more effective tobacco control measures. Yet during the 1980s and 1990s, smoking rates among teenagers were almost [unchanged](#). Rates started to fall from around 2000 onwards due to a

comprehensive tobacco strategy which included measures to limit marketing, reduce the availability of tobacco through raising the age of sale to 18, increasing the price through taxation and an effective strategy to tackle illicit tobacco.

You are asked to provide a quote by the tobacco industry/media to accompany an article promoting the tobacco industry role in tobacco control

- Alert your local public health and communications teams and regional tobacco programme where relevant.
- Be wary of the purpose of the article: it may be part of industry corporate social responsibility strategies. Ask for the source of and background to the story, a copy of the press release and any quotes that have already been received from other spokespeople.
- If a quote is offered by your local authority, it could state that all tobacco kills, that up to two thirds of long-term smokers will die early as a result of their addiction and that the tobacco industry should be made to pay for the damage it does to society.
- If the story is about illicit tobacco, a guide on messages to use and avoid is available on the [Illicit Tobacco Partnership](#) website. You could also point out the industry's complicity in [tobacco smuggling](#).

The tobacco industry reports that it has been working in partnership with your local authority

- Assuming this is inaccurate (if all the steps above have been taken), correct the perception that you have been working in partnership. Examples include issuing a statement to the relevant media outlet; send an email to relevant colleagues who may have read the report; highlight the inaccuracy through your local authority's social media channels.
- Point out the reasons why Trading Standard
- s will not work in partnership with the industry and make it clear the circumstances through which this misperception may have arisen e.g. by showing evidence that any engagement was transparent and documented.

The tobacco industry makes an approach in relation to vape regulations

- Policies on tobacco as well as related products, including vapes and nicotine pouches, need to be protected from tobacco industry vested interests, therefore the same general principles apply.
- Intelligence offered by the tobacco industry regarding non-compliant vaping products, or underage sales, can be submitted via the Regional Intelligence Analyst.
- While vaping products continue to play an important role in supporting tobacco smokers to switch to a less harmful form of nicotine, we must do all we can to prevent sales to children and to remove from sale products which do not comply with UK regulations.
- Trading Standards can show their support for the proposals contained in the Tobacco and Vapes Bill which will give the Government powers to improve vape regulations.

The tobacco industry makes an approach in relation to nicotine pouches

- Policies on tobacco as well as related products, including vapes and nicotine pouches, need to be protected from tobacco industry vested interests, therefore the same general principles apply.
- Attempts by the tobacco industry to influence nicotine pouch regulation should be resisted.
- Because nicotine pouches do not contain tobacco they are likely to be less harmful than smoking. There is currently no evidence to demonstrate the role of nicotine pouches in smoking cessation.
- Trading Standards can show their support for the proposals contained in the Tobacco and Vapes Bill which will bring in an age of sale for nicotine pouches as well as give the Government powers to improve product regulations.

You are invited to attend or take part in a forum to discuss vaping enforcement

- Check who is organising the event to ensure that it does not have links to the tobacco industry. Obligations under Article 5.3 prevent local authorities and other public bodies from participating in events organised by those with tobacco industry links.
- For the purposes of tobacco control, it is useful and indeed encouraged for Trading Standards to attend and take part in forums to discuss vaping enforcement providing the event isn't organised by the tobacco industry or its affiliates.

You need to procure a third party supplier to support enforcement work

- Work with the procurement team to explore the inclusion of a question which requires potential suppliers to disclose whether they work for the tobacco industry and ask for details of any relevant work
- If the answer is yes, use the information provided to decide whether this presents a conflict of interest to your Trading Standards work. In all cases, document your decision.
- If procurement does go ahead, ensure there are safeguards in place to protect your work from the tobacco industry and make the supplier aware of your local authority's obligations under Article 5.3.

What are the risks of working with the tobacco industry?

If Trading Standards or other enforcement bodies such as the Police work with the tobacco industry, this could lead to claims of "working in partnership" and could jeopardise perceived compliance with Article 5.3.

Chartered Trading Standards Institute legal advice on Article 5.3 concludes that Article 5.3 FCTC is likely to be directly effective in UK law. This means it could be relied upon in legal proceedings brought by an individual or other non-state body against a public authority. An authority that does not act in compliance with the FCTC may be exposed to risk of judicial review.

What can be done to strengthen your approach to tobacco control?

- If your local authority has not already done so, it can join the [Smokefree Action Coalition](#) in order to stay up to date with national developments, particularly in relation to the Tobacco and Vapes Bill.
- A toolkit for local authorities to help them meet their obligations as parties to the FCTC is available [here](#).
- If there is a local tobacco control alliance/partnership in your area, keep Trading Standards fully engaged in its discussions and the development and monitoring of its action plan.