

This template summarises the key decisions/actions taken in the EHRIA, and has been separated from the full EHRIA document for publication on the SPS external website in compliance with statutory requirements.

Background	
Title of the Policy	Sale of E Cigarettes on Prison Canteen
EHRIA Lead (role)	Smoke Free Prisons Programme Policy Manager
Date EHRIA completed	28.08.17
Review date and frequency	Change in Prison rules or legislation
Is this a new or revised policy/practice?	New <input checked="" type="checkbox"/> Revised <input type="checkbox"/>

Scoping
<p>What are the aims of this policy/practice? SPS CEO, Colin McConnell, has committed to Scotland's prisons becoming smoke free by November 2018.</p> <p>The timescale is informed by the Tobacco in Prison Study (TIPS) report on Staff Exposure to Second-hand Tobacco Smoke in Scotland's Prisons, published on 17 July 2017.</p> <p>E-cigarettes are to be made available to prisoners as part of the move to smoke free. E-cigarettes will only be available through the prison canteen, will only be disposable, single use e-cigarettes and will only be permitted for use where smoking is currently permitted.</p> <p>The rationale for the introduction of e-cigarettes is to help nicotine addicted prisoners to cope with the transition to smoke free prisons by providing an alternative that is less harmful to users and by-standers and is widely used in the community as a means to stop smoking.</p>
<p>WHO did you consult with? SPS convened a multi-agency stakeholder group with a remit to consider and report on risks and benefits of introducing e-cigarettes. The group included representation from NHS, Scottish Government Tobacco Control Team and Trade Union Side.</p> <p>The group heard from people with specialist knowledge and experience, including Professor Linda Bauld, Professor of Health Policy, Director of the Institute for Social Marketing and Dean of Research (Impact), University of Stirling, CRUK/BUPA Chair in Behavioural Research for Cancer Prevention, Cancer Research UK and Deputy Director, UK Centre for Tobacco and Alcohol Studies. The group also heard from colleagues in the National Offender Management Service who have been involved in introducing e-cigarettes in prisons and implementation of smoke-free prisons in England and Wales.</p>

The SPS Prisoner Survey 2015 included questions on e-cigarettes, as did the TIPS staff and prisoners surveys and staff focus groups.

WHAT did you learn?

After considering a range of evidence, the majority of the stakeholder group members supported introduction of e-cigarettes within certain parameters. TUS representatives opposed introduction of e-cigarettes. Subsequent discussion has established that although TUS do not support the policy they will not take action to prevent introduction.

Prisoner surveys have found a significant proportion have previously used e-cigarettes, said they would use them in prison if they were available and many would view smoke free prisons more favourably if e-cigarettes were available.

Staff survey responses were approximately 50% in support of e-cigarettes for prisoners.

Colleagues in NOMS (now HMPPS) advised that due to security limitations

HOW will this shape your policy/practice?

Parameters established by the stakeholder group will be included in the policy:

- E-cigarettes obtainable only through the prison canteen;
- Only “first generation” e-cigarettes, i.e. single use items, not re-fillable or re-chargeable will be available;
- Use of e-cigarettes only permitted in the individual’s cell or room or during outdoor recreation;
- E-cigarettes in possession when an individual came into custody to be placed in storage and a reception pack offered containing an e-cigarette at own expense, reflecting the current arrangements for tobacco;
- NHS Smoking Cessation Support Services remain available to all those in custody wishing to stop smoking (i.e. irrespective of e-cigarette use);
- E-cigarettes to be offered as a harm reduction measure, with the overall aim of neither smoking nor using e-cigarettes promoted as the best option;
- Information on the effective use of e-cigarettes to be available to those in custody; and

E-cigarette policy to be reviewed periodically with consideration of emerging evidence of health risk to users or bystanders.

What quantitative and/or qualitative evidence as well as case law relating to equality and human rights have you considered when deciding to develop new or revise current policy/practice?

Royal College of Physicians (2016). *Nicotine without smoke: Tobacco harm reduction*, London (2016) <https://www.rcplondon.ac.uk/projects/outputs/nicotine-without-smoke-tobacco-harm-reduction-0>

[Presentation](#) by Professor Linda Bauld (link available to SPS employees).

Public Health England report on e-cigarettes:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/311887/Ecigarettes_report.pdf

Update to the above Public Health England report:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/457102/Ecigarettes_an_evidence_update_A_report_commissioned_by_Public_Health_England_FINAL.pdf

Impact

Will the impact and outcomes of the new/revised policy/practice:

<p>Contribute to eliminating discrimination, harassment and victimisation? E.g.</p> <ul style="list-style-type: none"> • Raise awareness of our SPS vision and values for equality and diversity • Challenge appropriately any behaviours or procedures which do not value diversity and advance equality of opportunity 	<p>POSITIVE: It will contribute to eliminating discrimination, harassment, victimisation <input checked="" type="checkbox"/></p>
	<p>NO EFFECT: It will have no effect on discrimination, harassment and victimisation <input type="checkbox"/></p>
	<p>NEGATIVE: It will make discrimination, harassment and victimisation worse <input type="checkbox"/></p>
<p>Advance equality of opportunity between those who share a protected characteristic and those who do not? E.g.</p> <ul style="list-style-type: none"> • Remove or minimise disadvantage • Meet the needs of equality groups that are different from the needs of others participation in public life 	<p>POSITIVE: It will advance equality of opportunity <input checked="" type="checkbox"/></p>
	<p>NO EFFECT: It will have no effect on equality of opportunity <input type="checkbox"/></p>
	<p>NEGATIVE: It will reduce equality of opportunity <input type="checkbox"/></p>
<p>Foster good relations between those who share a protected characteristic and those who do not? E.g.</p> <ul style="list-style-type: none"> • Tackle prejudice • Promote understanding 	<p>POSITIVE: It will foster good relations <input checked="" type="checkbox"/></p>
	<p>NO EFFECT: It will have no effect on good relations <input type="checkbox"/></p>
	<p>NEGATIVE: It will cause good relations to deteriorate <input type="checkbox"/></p>
<p>Ensure Human Rights Compliance?</p>	<p>It will uphold human rights articles. <input checked="" type="checkbox"/></p>
	<p>It will breach human rights articles. <input type="checkbox"/></p>

Please summarise the results of the Equality & Human Rights Impact Assessment, including the likely impact of the proposed policy/practice advancing equality and human rights.

Positive and Negative Impacts

The groups that will experience positive and negative impacts of an embedded smoke free culture in Scottish prisons are noted in this section, as these impacts are inextricably linked, and described in more detail in the evidence gathering section.

Impact	Mitigation
<input checked="" type="checkbox"/> Age (<i>e.g. older people or younger people</i>):	<p>There were clear differences in cigarette smoking status by age in 2015, as noted in previous Scottish Health Survey reports. Self-reported current smoking prevalence in 2015 was highest among those aged 25-54 (24-26%), lower among those aged 16-24 (21%) and those aged 55-74 (15-21%) and lowest among those aged 75 and over (8%).ⁱ</p> <p>Strategy and implementation work will be based on an understanding that the prison population are significantly more likely to be dependent smokers than the UK average.</p> <p>People aged 25-54 are more likely to be smokers. Availability of e-cigarettes offers this group an alternative to smoking that may make the transition less challenging.</p>

☒ **Race** (e.g. people from black or any minority ethnic groups):

The 2012 report on Equality Groups from Scottish Health Surveyⁱⁱ found that “respondents from Pakistani and Asian Other ethnic groups were significantly less likely to smoke than the national average (prevalence of 13% and 9% respectively)” And that “White British smokers smoked an average of 14.4 cigarettes a day, significantly more than those from Other White ethnic groups.”

Strategy and implementation work will be based on an understanding that the prison population are significantly more likely to be dependent smokers than the UK average.

This evidence suggests White British smokers are likely to smoke more than other groups. Availability of e-cigarettes offers this group an alternative to smoking that may make the transition less challenging.

<p>☒ Gender (e.g. women or men):</p>	<p>The Scottish Health Survey has consistently found that men are slightly more likely to be smokers than women.</p> <p><i>“For both men and women aged 16 and over in 2014/2015, just over a fifth (22%) self-reported as current cigarette smokers. When adjusted for cotinine levels, prevalence rose to 25% for all adults (26% for men and 24% for women).”ⁱⁱⁱ</i></p> <p>However, the smoking prevalence at Cornton Vale (the only dedicated women’s prison in Scotland) in the 2015 Prisoner Survey was 75%, slightly higher than the Scottish prisons average of 72%. High levels of substance misuse, mental health problems and history of adverse childhood experiences is likely to add to the challenge experienced by women in custody in stopping smoking. In the 2015 survey, 40% of women at Cornton Vale wanted to stop smoking.</p> <p>Availability of e-cigarettes offers this group an alternative to smoking that may make the transition less challenging.</p>
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<p>☒ Disability (e.g. people with visible or non-visible disabilities, physical impairments):</p>	<p>Nationally, those with a reported disability have been found to be significantly more likely to smoke than those who do not. 34% of those with a limiting long-term condition smoked compared with only 23% and 22% of those with a non-limiting condition or with no condition.^{iv}</p> <p>Smoking is around twice as common among people with mental health disorders. Smokers with mental disorders are just as likely to want to quit as those without, but are more likely to be heavily addicted to smoking and are less likely to successfully stop.^v</p> <p>Availability of e-cigarettes offers this group an alternative to smoking that may make the transition less challenging.</p>
<p>☒ Gender Identity (e.g. changed/changing gender from that assigned at birth):</p>	<p>Those who have or are planning to undergo Gender Reassignment are more likely to smoke and are therefore likely to experience both the negative and positive effects of the policy.^{vi}</p> <p>Availability of e-cigarettes offers this group an alternative to smoking that may make the transition less challenging.</p>

<p>☒ Religion or Belief (e.g. <i>belonging to a particular religion/belief or no affiliation</i>):</p>	<p>Nationally, Roman Catholics and those of no religion are more likely to smoke.^{vii}</p> <p>These groups make up a significant proportion of the prison population in Scotland.</p> <p>Availability of e-cigarettes offers this group an alternative to smoking that may make the transition less challenging.</p>
<p>☒ Sexual orientation (e.g. <i>lesbian, gay, bisexual or heterosexual</i>):</p>	<p>The 2012 report on Equality Groups from Scottish Health Survey^{viii} found that “<i>Self-identified bisexual (27%) and gay and lesbian respondents (28%) had a slightly higher smoking prevalence than heterosexuals, but the difference was not significant. Those who self-identified as having an ‘other’ sexual orientation were significantly more likely to smoke than heterosexual respondents (36% compared to 24%).</i>”</p>
<p>☒ Maternity and Pregnancy (e.g. <i>pregnant/on maternity leave/breastfeeding</i>):</p>	<p>Exposure of mothers to SHS during pregnancy reduces birth weight and may also effect risk of prematurity and being small for gestational age.^{ix}</p> <p>Availability of e-cigarettes offers this group an alternative to smoking that may make the transition less challenging, benefitting mothers and their unborn children.</p>

<p><input checked="" type="checkbox"/> Marriage and civil partnership:</p>	<p>Unmarried people are almost twice as likely to be smokers as individuals who are married.^x The marital status of the overwhelming majority of prisoners is single (78%)^{xi}.</p> <p>Strategy and implementation work will be based on an understanding that the prison population are significantly more likely to be dependent smokers than the UK average.</p> <p>Availability of e-cigarettes offers this group an alternative to smoking that may make the transition less challenging.</p>
<p><input checked="" type="checkbox"/> Socio-economic groups:</p>	<p>Across Scotland, smoking is lowest within the most affluent communities and incrementally increases with increasing levels of deprivation; from 35% in the most deprived quintile by the Scottish Index of Multiple Deprivation (SIMD1), to 11% in the least deprived (SIMD5).^{xii}</p> <p>Strategy and implementation work will be based on an understanding that the prison population are significantly more likely to be dependent smokers than the UK average.</p> <p>Availability of e-cigarettes offers this group an alternative to smoking that may make the transition less challenging.</p>

<input type="checkbox"/> Human rights compliance (e.g. civil, political, economic, social, and cultural rights):	No evidence has been found to suggest this policy will have any impact on Human Rights compliance.
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Recommended course of action	
Outcome 1: Proceed – no potential for unlawful discrimination or adverse impact or breach of human rights articles has been identified.	<input checked="" type="checkbox"/>
Outcome 2: Proceed with adjustments to remove barriers identified for discrimination, advancement of equality of opportunity and fostering good relations or breach of human rights articles.	<input type="checkbox"/>
Outcome 3: Continue despite having identified some potential for adverse impact or missed opportunity to advance equality and human rights (justification to be clearly set out).	<input type="checkbox"/>
Outcome 4: Stop and rethink as actual or potential unlawful discrimination or breach of human rights articles has been identified.	<input type="checkbox"/>

Summary of Outcome decision and Recommendations
<p>The outcome is that the e-cigarettes will be introduced. This policy will make available to prisoners a less harmful alternative to smoking, making the transition to smoke free prisons more manageable for those individuals and mitigating the risk of prisoner unrest and distress.</p>

Next steps
Provide information on e-cigarettes and how to access NHS support to stop smoking.

If you require this document in an alternative format, please contact SPSEqualityandDiversityTeam@sps.pnn.gov.uk

ⁱ The Scottish Health Survey 2015: Volume 1, <http://www.gov.scot/Publications/2016/09/2764>
ⁱⁱ Scottish Health Survey, Equality Group, 2012, <http://www.gov.scot/Resource/0040/00406749.pdf>
ⁱⁱⁱ The Scottish Health Survey 2015: Volume 1, <http://www.gov.scot/Publications/2016/09/2764>
^{iv} Scottish Health Survey, Equality Group (2012), <http://www.gov.scot/Resource/0040/00406749.pdf>
^v ASH Scotland, Tobacco Use and people with mental health problems (2011)
^{vi} NHS Health Scotland Equality issues
^{vii} Ibid
^{viii} Scottish Health Survey, Equality Group, 2012, <http://www.gov.scot/Resource/0040/00406749.pdf>
^{ix} Jayes L, et al., (2015). Second-hand smoke in four English prisons: an air quality monitoring study. UK Centre for Tobacco and Alcohol Studies.

^x Office for National Statistics. Adult Smoking Habits in Great Britain, 2013, <https://www.gov.uk/government/statistics/adult-smoking-habits-in-great-britain-2013>

^{xi} Prisoner Equality Monitoring December 2016

^{xii} <http://www.gov.scot/Topics/Statistics/Browse/Health/scottish-health-survey/Publications/Supplementary2015>