

## **Request**

I am seeking data on the number of convenience stores found selling illicit vapes.

Please can you supply the following information:

- 1) The number of businesses found selling illicit vapes for the period of 1 January 2022 – 31 December 2022 and January 2023 and 31 August 2023.
- 2) The key search terms I am seeking in relation to the type of business are; convenience store, corner shop, grocery store, supermarket, newsagent, symbol group, tobacconist, off licence and independent retailer.
- 3) Could you also provide the name the offending businesses traded under and their address.
- 4) The punishment for the business and whether they complied – warning, fine, compliance notice, escalation to the police, etc.

Ideally, I would like these figures broken down month-on-month.

## Response

- 1) Non compliant vape visits commenced in October 2022. 98 premises selling illicit vapes have been identified up to August 2023
- 2) The premises identified are a mix of all these shop categories. We are not able to break down figures.
- 3) I am unable to release the detail of the report you have requested as it is exempt under Section 30 (1)(b) of the FOI Act which states that:

Information held by a public authority is exempt information if it has at any time been held by the authority for the purposes of:–

- any investigation which is conducted by the authority and in the circumstances may lead to a decision by the authority to institute criminal proceedings which the authority has power to conduct.

*This exemption is subject to a "public interest test". This has been considered and concluded that as the information could still be referred to in any future proceedings, disclosing the information could potentially prejudice any future investigations.*

*Our public interest argument is as follows:*

Public interest arguments in favour of maintaining the exemption:

The information contained is obtained by an authorised officer conducting enquiries in pursuit of a criminal offence and would be used for consideration in determining whether or not legal proceedings against the business should be instigated, or considered for future proceedings. The information will also contain business information.

The information would form part of any prosecution file.

Public interest arguments in favour of disclosure:

There are none as it is information relating to an investigation of a criminal offence and so is not information publicly available information until heard in an open court.

Balance of the public interest arguments:

As per ICO guidance : When considering the public interest in maintaining the exemptions it is necessary to be clear what they are designed to protect. In broad terms, the section 30 exemptions exist to ensure the effective investigation and prosecution of offences and the protection of confidential sources. They recognise the need to prevent disclosures that would prejudice either a particular investigation or set of proceedings, or the investigatory and prosecution processes generally, including any prejudice to future investigations and proceedings.

We are therefore of the view that, in this case, the public interest falls in favour of maintaining the exemption.

- 4) Premises receive guidance and a warning.  
Illegal stock has been seized if found to still be on sale after the warning

17 premises have been subject to seizures – all since April 2023:

April-1

May-1

June -4

July -5

August -6

No prosecutions have commenced as of this date.