

Guide to the
Industry Standard
of
Excellence

Version 1.5



Electronic Cigarette Trade Association of Canada

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Executive Summary

1. Introduction

The ECTA Industry Standard of Excellence itemises the precise legal requirements for the regulation of electronic cigarette products and accessories, together with Excellent Business Practices. There are also details of ECTA's Program of Internal Audits, together with specific itemised procedures, e.g. for e-liquid blind testing.

Chapter 1 provides a brief history of the emergence of this innovative and exciting business sector and a discussion of Health Canada's approach to the regulation of this industry.

2. Legislation and standards covered by the ISE

Chapter 2 explains the obligations on producers and distributors in accordance with the **Consumer Product Safety Act** or in other words the measures needed to be taken by all parties to ensure consumers are presented with a product meeting the safety standards of the market place. As any legislative changes are implemented, the ISE will be updated to reflect the changes.

Chapter 3 considers the **Consumer Chemicals and Containers Regulations 2001 of the Hazardous Products Act**, as it would apply to electronic cigarettes and e-liquid. This includes details about e-liquid testing protocols, to ensure that there are no contaminants, and that the marked percentage of nicotine is contained in the products. This chapter also specifies the requirements for risk and safety phrases on labels, whether or not they contain nicotine, and detailed instruction on how to create labels meeting both federal and the more stringent ECTA standards.

Chapter 4 examines the implications of the **Consumer Packaging and Labelling Act 1985**. This includes details of the obligations on vendors to keep records of their own testing.

Chapter 5 discusses the wide range of regulations which apply to both battery compliance and battery recycling. Also covered are regulations applying to plugs and sockets.

Chapter 6 summarises the **Canadian Code of Practice for Consumer Protection in Electronic Commerce**. This chapter details precisely what is required of ECTA members by law, as it relates specifically to sales of electronic cigarettes, but also goes a little further to achieve the Industry Standard of Excellence.

Chapter 7 details the legal requirements under the **Personal Information Protection and Electronic Documents Act 2001**, again as applied to electronic cigarette sales. Included are the steps to be taken if privacy breaches occur.

Chapter 8 gives an overview of the **Health and Safety at Work Act 1974** requirements for businesses. Please note: this is not comprehensive, but is merely included to assist e-cigarette vendors in creating a safe and healthy work environment.

Chapter 9 itemises the precise Customer Service Standards expected of ECTA members, in order to demonstrate the Industry Standard of Excellence.

Chapter 10 itemises what is required of ECTA members concerning website compliance. This forms part of the Internal Audit Program.

Chapter 11 addresses the **Canadian Code of Advertising Standards**. This covers the regulatory requirements for all advertising and promotional materials.

Chapter 12 provides much greater detail about the Internal Audit Program. This chapter includes information about how audits will proceed, how non-compliance will be addressed, and the method by which Trading Standards will be notified of audit results. Included in the annexes to this chapter are Material Safety Data Sheets for nicotine, propylene glycol and glycerine.

Chapter 13 explains the internal disciplinary procedures as they apply to ECTA members. This includes details of how infractions are dealt with, as well as information about our Seal of Compliance program.

Chapter 14 explains how to deal with media requests for interviews or information and how to respond to the most common questions.

Chapter 1

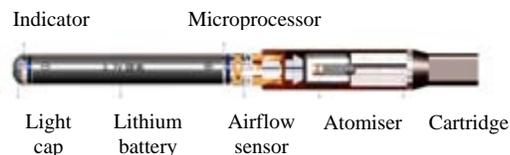
A Brief History of the Electronic Cigarette Industry

1. Introduction

Electronic Cigarettes (or ‘e-cigarettes’ or ‘e-cigs’) were first patented in China in 2003.¹ During the intervening years, e-cigarettes have become progressively more widely available across the world, and hundreds of thousands of smokers now use these products – often entirely replacing traditional tobacco cigarettes. Despite such widespread use over so many years, there have been no substantiated reports of anyone suffering any harm while using one of these products.

Figure 1 below shows an early electronic cigarette design in cross section. The cartridge contains a liquid – commonly referred to as ‘e-liquid’ – which is largely made up of propylene glycol (PG) and/or vegetable glycerine (VG), nicotine (at low levels, ranging between 0.6% and 3.6%, which is well below what could be considered a ‘poisonous’ level, or 0% e-liquids), and some flavourings. PG is widely used in fog machines, and has been demonstrated to be non-toxic and non-carcinogenic. VG is widely used in both food and medical products.

Figure 1:



There are now many varieties – in several different shapes and sizes – but they all operate in a similar manner. Electronic cigarettes are relatively easy to use, since one simply puffs on it as one would on a tobacco cigarette. As the user draws on the device the battery heats up the

¹ Demick B. A high-tech approach to getting a nicotine fix. Los Angeles Times. April 25, 2009. <http://articles.latimes.com/2009/apr/25/world/fg-china-cigarettes25>

atomizer, which vaporizes the e-liquid. The vapour which is produced is drawn into the mouth as the user inhales, and delivers a sensation very similar to that produced by cigarettes. Indeed, this is one of the main reasons for the acceptability of the product to smokers, and a key function which currently licensed Nicotine Replacement Therapy (NRT) products fail on. However, since there is no combustion, and nothing is burning, there is no actual smoke – producing deadly carcinogens – and no passive smoking risk. There is only vapour, similar to that produced by a fog machine.

This means that electronic cigarettes are not subject to the smoking ban, since they produce no smoke. However, we recognise the potential challenges for enforcement officers, and provide a simple checklist (at **Annex 1.1**) which will allay concerns and assist officers in taking appropriate action when necessary against anyone breaking the law, whilst allowing consumers of electronic cigarettes to enjoy these products unmolested.

As previously noted, the basic function of an electronic cigarette is the battery-powered vapourization of e-liquid. The vaporized liquid simulates smoke, and typically contains nicotine. In this way, the use of an e-cig provides the recreational pleasure associated with smoking, but without the toxic by-products of combustion, such as tar, carbon monoxide, etc. This means that the negative health effects of traditional tobacco smoke can be entirely avoided if smokers switch to using electronic cigarettes as an alternative.

E-liquid consists of the following ingredients:

- propylene glycol (PG)
- vegetable glycerin or glycerol (VG)
- concentrated flavouring
- low levels of nicotine* - typically between 1.1% and 3.6%

(* note that some e-liquid is nicotine-free)

PG is widely used in foods, cosmetics, and fog machines, as well as having many medicinal applications, such as in asthma inhalers. Over many decades PG has been demonstrated to be non-toxic and non-

carcinogenic.² VG, a closely related but thicker substance, is also widely used in foods, cosmetics and medical products.³ Both PG⁴ and VG⁵ are rated as GRAS (generally recognized as safe) by the FDA. Numerous inhalation tests on both substances have shown no adverse effects.

The much-maligned nicotine has undergone something of a renaissance, since it has been shown that it is not the *nicotine* in tobacco products which is carcinogenic. It is now known that the nicotine itself (at the levels most commonly consumed by smokers, NRT users, and vapers) is no more harmful than common caffeine consumption,⁶ and for some conditions may in fact be beneficial.⁷ Indeed, nicotine is now regarded as so safe that NRT products are recommended for use in pregnancy, and are even handed out to school children in some regions. (This is not something which ECTA condones, since it can and does have disastrous consequences in the hands of children.⁸)

² United States Environmental Protection Agency. Reregistration Eligibility Decision for Propylene Glycol and Dipropylene Glycol. 2006.

http://www.epa.gov/oppsrrd1/reregistration/REDs/propylene_glycol_red.pdf

³ HSE Consulting and Sampling, Inc. Literature Review for Glycerol and Glycols for Entertainment Services & Technology Association. No date.

http://tsp.plasa.org/tsp/working_groups/FS/docs/HSE.pdf

⁴ FDA. Database of Select Committee on GRAS Substances - Propylene Glycol. 2006.

<http://www.accessdata.fda.gov/scripts/fcn/fcnDetailNavigation.cfm?rpt=scogsListing&id=262>

⁵ FDA. Database of Select Committee on GRAS Substances – Glycerine and Glycerides. 2006.

<http://www.accessdata.fda.gov/scripts/fcn/fcnDetailNavigation.cfm?rpt=scogsListing&id=142>

⁶ Royal College of Physicians. Harm reduction in nicotine addiction. 2007.

<http://www.rcplondon.ac.uk/publications/harm-reduction-nicotine-addiction>

⁷ Powledge TM. Nicotine as Therapy. PLoS Biol November 16, 2004

<http://www.plosbiology.org/article/info:doi/10.1371/journal.pbio.0020404>

Edell D. Is Nicotine Good For The Heart? 08/03/2001

<http://www.healthcentral.com/drdean/408/56968.html>

⁸ United Press International. Boy, 14, overdoses on nicotine gum. July 20, 2009.

http://www.upi.com/Top_News/2009/07/20/Boy-14-overdoses-on-nicotine-gum/UPI-79591248131144/

Johnson M. Nicotine replacements poisoning kids. New Zealand Herald. Mar 3, 2011

http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10709777

Woolf A et al. Childhood Poisoning Involving Transdermal Nicotine Patches Pediatrics Vol 99 No 5 May 1, 1997. <http://pediatrics.aappublications.org/content/99/5/e4.full>

In the interests of industry responsibility and consumer safety, ECTA has already adopted a standard which requires its members to refrain from selling to general consumers any e-liquid containing more than 3.6% nicotine. By way of comparative example, the indications for the Nicorette inhalator suggest that a maximum daily dose would be 120mg. The highest level at which e-liquid is consumed by e-cigarette users is around 3.6%. An average vaper might consume 2ml per day. At 3.6% nicotine, this would provide 72mg of nicotine over the 24 hour period. (The vast majority of vapers use 1.8% e-liquid or lower, so this is at the ‘higher end’. 2ml of 1.8% e-liquid would provide a total of 36mg nicotine over 24 hours.) The indications for the Nicorette Inhaler suggest that the maximum recommended dose over a 24 hour period is 120mg:

“NICORETTE® Inhaler Nicotine 10 mg”

“For best results 6-12 cartridges should be used per day.”⁹⁾

The Canadian Electronic Cigarette Industry has united to form the **Electronic Cigarette Trade Association** (ECTA Research and Action Canada Inc, hereinafter referred to as “ECTA”), established in November 2011. ECTA’s mission statement includes the provision of information and assistance to various regulatory officials within Canada, to ensure compliance with the law across all the businesses in this sector, within an appropriate regulatory framework (supplied herein), under the Canada Consumer Product Safety Act 2010¹⁰ and other relevant legislative statutes.

We do not believe it is necessary or appropriate for electronic cigarettes to be regulated by Health Canada as medicines/drugs, since these are not medicinal products. This has been proven time and again, in the Courts of various nations, including the USA¹¹ and more recently, in Holland.

⁹ Johnson and Johnson (New Zealand). Data Sheet: Nicorette Inhaler. February 2011. <http://www.medsafe.govt.nz/profs/datasheet/n/Nicoretteinh10mg.pdf>

¹⁰ Canada Consumer Product Safety Act 2010.

<http://laws-lois.justice.gc.ca/eng/acts/C-1.68/page-1.html#docCont>

¹¹ US District Court for the District of Columbia. Memorandum Opinion. Smoking Everywhere and Sottera vs USFDA. January 14, 2010.

https://ecf.dcd.uscourts.gov/cgi-bin/show_public_doc?2009cv0771-54

(The Dutch government was recently fined in The Hague for attempting to classify electronic cigarette products as medicinal products.¹²)

Regulation as medicines would effectively result in the destruction of the Canadian Electronic Cigarette Industry: it would cost in excess of \$300,000 to \$500,000 to even apply for a Marketing Authorisation, and – perhaps more importantly – turning these products into ‘medicines’ would make them inherently less attractive to consumers who simply want the autonomous freedom to choose a reduced-harm alternative to the tobacco cigarette. If designated as medicines or therapies, smokers who have no interest in quitting might not bother to investigate “quitting therapies”. It may even make them less available. The investment in market authorization could increase the cost of these devices and place them out of the reach of less affluent smokers. It might also undermine the development of a strong domestic industry since only larger and well established foreign e-cigarette companies (or pharmaceutical and tobacco companies) could afford the authorization. It is possible for e-cigarettes to be more than adequately regulated under existing consumer protection laws.

2. Electronic cigarettes: Tobacco product, pharmaceutical product, or consumer electronics, by legal definition?

Tobacco products are very clearly defined in Canadian law:

“‘tobacco product’ means a product composed in whole or in part of tobacco, including tobacco leaves and any extract of tobacco leaves. It includes cigarette papers, tubes and filters but does not include any food, drug or device that contains nicotine to which the Food and Drugs Act applies.”¹³

The vast majority of electronic cigarettes do not contain any tobacco. Those e-liquids that do contain an element of tobacco flavouring are

¹² de Rechtspraak. BW8660, Court of the Hague, 200.105.395/01. June 26, 2012. http://zoeken.rechtspraak.nl/resultpage.aspx?snelzoeken=true&searchtype=ljn&ljn=BW8660&vrije_tekst=414117

¹³ Tobacco Act 1997. <http://laws-lois.justice.gc.ca/eng/acts/T-11.5/page-1.html#docCont>

likely to be at below the LOQ (level of quantification) in scientific analysis, and inasmuch as perfumes containing tobacco absolute are not classified as ‘tobacco products’ there is a solid precedent for considering that even tobacco-flavoured e-juices are not even marginal tobacco products. (Presumably this is because tobacco absolute, like the tobacco leaf/essential oils used in e-juice flavourings, are in and of themselves nicotine-free¹⁴). The Canadian Electronic Cigarette Industry does not consider itself part of, or affiliated with, the Tobacco Industry. We are an entirely separate industry, offering entirely separate – and indeed, deliberately alternative – products.

The Pharmaceutical Industry’s products (medicines/drugs) are equally carefully defined in Canadian law, as follows:

*“**drug**” includes any substance or mixture of substances manufactured, sold or represented for use in*

- *the diagnosis, treatment, mitigation or prevention of a disease, disorder, abnormal physical state, or its symptoms, in human beings or animals,*
- *restoring, correcting or modifying organic functions in human beings or animals, or disinfection in premises in which food is manufactured, prepared or kept; .”¹⁵*

Health Canada’s website provides further clarification:

- *“In the absence of a therapeutic claim, this substance is not considered to be a drug.”*
- *“This substance without therapeutic claims would not be considered a drug. It is only a new drug when it is intended as a therapeutic agent.”*
- *“It is to be regarded as a new drug only when intended as a therapeutic agent”*

¹⁴ Perfumer’s Apprentice. Tobacco Absolute. 2012.

<http://shop.perfumersapprentice.com/p-6667-tobacco-absolute-1-pure.aspx>

¹⁵ Health Canada. Listing of Drugs Currently Regulated as New Drugs (The New Drugs List) November 6, 2012

http://www.hc-sc.gc.ca/dhp-mps/prodpharma/applic-demande/guide-ld/newdrug-drognouv/ndrugs_ndroque-eng.php

- *"This substance without therapeutic claim is not considered to be a drug."*¹⁶

Therefore, we believe it is equally inappropriate – and unnecessary – to attempt to classify electronic cigarettes as medicines. E-cigarettes are neither tobacco products, nor are they pharmaceutical products; they are consumer electronics, marketed as an alternative to smoking tobacco. The Electronic Cigarette Industry is entirely separate from the Tobacco Industry and the Pharmaceutical Industry. Therefore, the only possible regulatory framework which can be legally applied to electronic cigarettes is the Canada Consumer Product Safety Act 2010, together with other relevant legal regulatory instruments, enforced by the various appropriate Canadian government Enforcement Officers.

3. The Food and Drugs Act

The Food and Drugs Act 1985 (as most recently amended in 2008)¹⁷ provides a framework for the protection of the public from genuinely dangerous products. The Food and Drugs Act prohibits the sale of products classified as poisons, by those without appropriate authorisation, i.e. registered pharmacists, medical professionals, licensed agricultural product manufacturers etc. Penalties are provided for those who breach these rules, as well as mechanisms for the immediate removal of such products from sale. Nicotine for human use is exempt under Schedule F, as follows:

Food and Drug Regulations (C.R.C., c. 870), Schedule F

"Nicotine and its salts, for human use, except

- (a) in natural substances;
- (b) in the form of a chewing gum containing 4 mg or less of nicotine per dosage unit;
- (c) in the form of a transdermal patch with a delivery rate of 22 mg or less of nicotine per day;

¹⁶ Health Canada. Listing of Drugs Currently Regulated as New Drugs (The New Drugs List) November 6, 2012

http://www.hc-sc.gc.ca/dhp-mps/prodpharma/applic-demande/guide-ld/newdrug-drognouv/ndrugs_ndroque-eng.php

¹⁷ Food and Drugs Act 1985. <http://laws-lois.justice.gc.ca/eng/acts/F-27/>

- (d) in a form to be administered orally by means of an inhalation device delivering 4 mg or less of nicotine per dosage unit; or
- (e) in the form of a lozenge containing 4 mg or less of nicotine per dosage unit

Nicotine et ses sels, destinés à l'usage humain, sauf :

- a) dans les substances naturelles;
- b) sous forme de gomme à mâcher contenant 4 mg ou moins de nicotine par unité posologique;
- c) sous forme de timbre cutané ayant un taux de libération de 22 mg ou moins de nicotine par jour;
- d) sous une forme destinée à être administrée par voie orale au moyen d'un inhalateur libérant 4 mg ou moins de nicotine par unité posologique;
- e) sous forme de pastille contenant 4 mg ou moins de nicotine par unité posologique¹⁸

This exemption reflects the fact that nicotine is a perfectly legitimate recreational substance, and sets out the necessary safety parameters for its use, and allows these products to fall within Consumer Product Safety regulations. The exemption is clearly drafted with human consumption in mind. This provision has not been superseded by electronic cigarettes, and they sit comfortably within the current structure.

Though, as already explicated, e-cigarettes are recreational consumer products and adequately regulated as such, even if miscategorised as under the purview of Health Canada they would still prove to be exempt. Under Schedule F the unit limit for nicotine dosage provided by inhalation devices far exceeds what is provided by e-cigarettes. At the highest concentration available to consumers (36mg/ml), if the vaper spent the same amount of time vaping as they would to smoke a cigarette (3 to 5 minutes), they would take in about 3.6 mg of nicotine. Since the dosage unit would be comprised of that 3.6 mg being divided among many puffs (the dosage unit based on cigarettes) what was already well

¹⁸ Food and Drug Regulations Schedule F. 2013.

http://laws-lois.justice.gc.ca/eng/regulations/C.R.C.%2C_c.870/page-366.html#docCont
 Food and Drugs Act - Regulations Amending the Food and Drug Regulations (1370 — Nicotinelozenge) July 12, 2006
<http://gazette.gc.ca/archives/p2/2006/2006-07-12/html/sor-dors143-eng.html>

below the acceptable limit would end up being a small fraction of that limit.

Health Canada has elsewhere indicated¹⁹ that dosage units in non-discrete units (such as creams or, as in this case, a cartomizer) where the amount used is variable be described as percentages or parts of the whole. This clearly contradicts any argument that all the nicotine contained in an e-cigarette constitutes a single dose.

Note: At the time of this writing there are pending changes to Schedule F.²⁰ As of December 19, 2013, the Prescription Drug List²¹ is expected to take effect and replace Schedule F. Nicotine is described on this document in the same terms as in Schedule F. Nicotine is described in the same fashion and also listed in the New Drugs List.²² The latter is the document that would come more fully into effect if nicotine is determined to be a therapeutic substance and thus require clinical trials and then review by the Therapeutic Products Directorate.

Curiously enough it is tobacco use that has demonstrated the safety of nicotine use. Decades of research has found that tobacco related disease stems from the elements of combustion and not from nicotine. It is difficult to imagine a reasonable argument against the safety of the use of e-cigarettes when all the components (propylene glycol, glycerine, flavouring, water, nicotine) have been individually found not to be harmful.

To attempt to effectively ban electronic cigarettes while leaving tobacco cigarettes widely available to consumers simply makes no sense. Both electronic cigarettes and tobacco cigarettes deliver relatively similar levels of nicotine – allowing for the varieties in each type of product – so to attempt to remove one from sale without impacting on the other would be a clear infringement of the rules governing fair trade and business enterprise. Notwithstanding that tobacco products are well protected in law, there is an inherent lack of coherence in the thought process which could suggest that electronic cigarettes should be removed from sale, not

¹⁹ http://www.hc-sc.gc.ca/dhp-mps/prodnatur/legislation/docs/license-licence_guide_tc-tm-eng.php#app3 (see section 4.3.3.)

²⁰ http://www.hc-sc.gc.ca/dhp-mps/consultation/drug-medic/pdl_qa_ldo_qr-eng.php

²¹ http://www.hc-sc.gc.ca/dhp-mps/prodpharma/pdl-ord/pdl_list_fin_ord-eng.php

²² http://www.hc-sc.gc.ca/dhp-mps/prodpharma/applic-demande/guide-ld/newdrug-drognouv/ndrugs_ndrogue-eng.php

least because they pose no risk of serious harm to consumers, nor has any such risk been demonstrated to date. The same cannot be said of tobacco products.

4. The ECTA Industry Standard of Excellence

By offering the regulatory framework outlined herein for the effective self-regulation of the Electronic Cigarette Industry from within, with appropriate oversight from Canadian regulators, including Health Canada Enforcement Officers, we hope to allay any fears of risk to public health and safety. We believe that our program of Internal Audits provides sufficient checks and balances not only to demonstrate due diligence, but to promote Excellent Business Practices across the sector.

Annex 1.1

Checklist for the differentiation between illegal breaches of the smoking ban and the legal use of electronic cigarettes

The most obvious indicator of an illegal breach of the smoking ban – particularly in light of the fact that most areas covered by smoking bans are relatively enclosed spaces – is the acrid lingering odour of tobacco smoke. Electronic cigarettes do not involve combustion, and therefore the vapour which is emitted carries no lingering odour at all. If you can smell smoke, this will most likely mean that a breach of the smoking ban has occurred. However, officers will need to provide more robust evidence than a statement regarding smell. There are many other sources of evidence which may help officers to distinguish between tobacco smoking and the use of electronic cigarettes:

Tobacco cigarettes	Electronic cigarettes
Appearance	
Recognisable packets, with distinctive branding; cellophane wrapper, foil inner, and cardboard containers. Paper/plastic wrapping and metallic bands for cigars. (These lead to distinctive items of waste, which may be collected as evidence.)	Usually carried as individual items, or with accessories and spare carts/bottles of fluid for refilling. These may be kept in a small bag or container. Since electronic cigarettes are reusable, they do not produce ‘rubbish’ in the same way as tobacco products.
Include a filter in (usually) either light brown or white. The ‘butts’ are discarded when the cigarette/cigar is finished, and may also be collected as evidence.	The cartridge or mouthpiece may be similar in colour to tobacco cigarettes, i.e. light brown or white, or may be black, silver or any other colour. These are not usually discarded, but are rigid, being made of tough plastic, rather than being ‘spongy’ like cigarette filters.

<p>Cigarettes come in fairly standard sizes: kingsize (regular) or superkings (slightly longer), with the length reducing as the smoker uses the cigarette, with ash being produced. (This may be collected as evidence.) Cigarettes are usually white (apart from the filter in some cases), and covered with paper, so they will not appear ‘shiny’.</p>	<p>Usually longer than tobacco cigarettes (although not always), but distinctive metallic/shiny finish (in various colours) and sometimes with LED light (in various colours). The length does not reduce as the product is used, and there is no ash or residue.</p>
<p>Cigarettes, and even some cigars, are fairly light in weight, so can be easily held between the lips for almost continuous smoking. This often appears quite distinctively as a smoker with the cigarette ‘hanging out of their mouth’.</p>	<p>Electronic cigarettes tend to be a little heavier – and in some cases, much heavier – than tobacco cigarettes, so users tend to hold them in the teeth, or more often in the hand, then putting it in a pocket or on a table in between ‘puffs’. This is distinctively different behaviour from that of the smoker of tobacco cigarettes.</p>
<p>Ignition</p>	
<p>Tobacco cigarettes and cigars must be lit by a flame, either a lit match or a lighter. This process may also produce ‘waste’ which may be collected as evidence, and will certainly be quite obvious if witnessed.</p>	<p>There is no combustion with electronic cigarettes, so no flame or ignition is necessary. The electronic cigarette is operated by a battery which either works automatically as the user ‘puffs’ on the device, or may have a manual switch on the battery to deliver the vapour.</p>
<p>A lit tobacco cigarette or cigar will continuously emit an acrid, lingering odour until it is extinguished. Also, the smoker will exhale tobacco-smelling smoke</p>	<p>The electronic cigarette produces no smoke at all, and no vapour until the user ‘puffs’ on it, after which they will exhale a cloud of white vapour which usually has no smell, and dissipates</p>

after each ‘puff’. As the smoker ‘puffs’, the lit end of the cigarette will glow brighter, then dim as ash is produced.	quickly. The LED (if applicable) on the end of the electronic cigarette will glow when the battery is operated – either automatically on inhalation, or via the switch – at a more or less constant level. No ash will be produced and the light (if present) will automatically go out when the user stops activating the battery.
Requires some kind of receptacle to collect the ash which forms as the cigarette/cigar is smoked.	The electronic cigarette is not burning anything, so no ash is produced and no ashtrays are needed.
After the cigarette/cigar is finished, there will be a ‘stub’ or ‘butt’, which may have been partially crushed during the process of extinguishing the flame.	The electronic cigarette’s length and shape do not change as it is used, and there is nothing to discard after use (apart from spent cartridges which are no longer required for refilling, as indicated above).
Partially smoked cigarettes and cigars which have been extinguished may be relit and smoked to completion, until only a ‘stub’ or ‘butt’ is left (as above).	The electronic cigarette is immediately ready for reuse, or may be recharged by replacing the cartridge or battery, or by refilling the cartridge with ‘e-liquid’.

Despite the best efforts of government in introducing smoking bans in public places, smoking is still an immediately recognisable activity. The use of electronic cigarettes – while similar in appearance – is notably different, as indicated above. If a smoker’s behaviour looks ‘odd’ or ‘different’ from what you would expect to see, they may well be using an electronic cigarette.

We hope that the table above will assist enforcement officers in being able to pinpoint the evidence necessary to distinguish between the two, so that illegal breaches of the smoking ban can be dealt with appropriately, and users of electronic cigarettes can be allowed to enjoy them in peace.