



Department
of Health &
Social Care

*From Baroness Merron
Parliamentary Under-Secretary of State for
Women's Health and Mental Health*

*39 Victoria Street
London
SW1H 0EU*

16 March 2026

Dear Lord Carlile,

Thank you for your letter of 4 March concerning the Tobacco and Vapes Bill and the Windsor Framework. I apologise for the delay in responding.

You asked a number of questions relating to the UK's TRIS notification, the opinions submitted by EU Member States and the EU's response. The UK notification, the opinions of Member States, the UK response to these and the EU's response are publicly available and can be found here. <https://technical-regulation-information-system.ec.europa.eu/en/notification/27169>

The UK Government has notified certain provisions in the Bill related to Northern Ireland on the EU's TRIS system. I wish to emphasise, that this is a standard process and not an approval process. The Commission and Member States may comment, but they do not play a role in approving the UK's legislation in respect of Northern Ireland. It is not unusual for the Commission or Member States to comment on legislation, particularly on topics related to tobacco. For example, we recently saw that several Member States commented on a French proposal to ban nicotine pouches, despite this measure already having been taken forward in other Member States.

The Government has provided a comprehensive response to the opinions received on the TRIS notification, setting out the reasons why the Smoke-free Generation policy is fully compatible with our international treaty obligations in Northern Ireland.

A concern raised by certain Member States is that the policy is not compatible with the free movement of goods, because it constitutes a quantitative restriction on imports or a measure with equivalent effect, contrary to the Treaty on the Functioning of the EU. In summary, we are satisfied that the policy is not such a measure: it is an age-of-sale measure. The policy imposes no prohibitions on the use or import of tobacco – it merely regulates how the products are sold and who they can be sold to.

Even if the policy arguably did constitute a restriction, we are satisfied that this would clearly be justified on public health grounds and so would be permissible under the Treaty. Our policy is designed to protect the health of children and future generations. It does not discriminate against goods originating in other nations or protect UK products at the expense of products imported from the EU or elsewhere.

Some of the opinions also suggested that the policy is not compatible with the EU Tobacco Products Directive. We do not consider that the policy falls within the scope of the Directive because the Directive clearly provides that Member States remain free to regulate matters

such as domestic sales arrangements and indeed are encouraged to do so. Even if the policy did fall within the scope of the Directive, it would clearly be justified on public health grounds, and we have set those out in some detail in our report to the Commission which has been published online. In short, the policy will get tobacco use to fall to 0% over a long and gradual time and will save 150,000 deaths and 470,000 disease cases in England alone by 2100. The Smoke-free Generation policy is necessary and the most proportionate way of achieving our health objectives.

As a standard procedure, the TRIS process is concluded by a Commission response to the relevant country's reaction, even though in our case the Commission had not provided any comments on the Bill in the previous window for comment. On the 2 March, the European Commission published the following in response to the UK Government's note: *The Commission services take note of the responses of the UK authorities in respect of Northern Ireland and will continue to follow the development of the measure, and its application should it be adopted.*

The TRIS process has now concluded, and the Bill is progressing through its final stages.

In response to your questions on the risk of future litigation. It is not unusual for the tobacco industry to argue that Government measures are incompatible with the law - we have seen this many times before, including on the introduction of standardised packaging in 2016 and regulations made under the Tobacco Advertising and Promotion Act 2002. The Government's position remains that the Smoke-free Generation policy measures in the Bill are compatible with the Windsor Framework and will apply in Northern Ireland.

All good wishes,

A handwritten signature in dark ink, appearing to read 'Gillian', with a stylized flourish underneath.

BARONESS MERRON