



Government Legal Department

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BY EMAIL ONLY

01 December 2023

Your ref:
Our ref: ██████████

Dear Mr ██████████,

Philip Morris Limited v Secretary of State for Health and Social Care

Thank you for your letter dated 27 November 2023, we can confirm that GLD are instructed to represent the Secretary of State for Health and Social Care (SoS).

As you will be aware, the UK government is required, under Article 5.3 of the WHO Framework Convention on Tobacco Control, to protect public policy from the commercial and other vested interests of tobacco companies. In line with Article 5.3, the Department of Health and Social Care will be publishing both your correspondence and this response, this will also apply to any future correspondence in relation to this matter.

Pre-Action Protocol Response

The SoS will provide a response to your letter as soon as possible but we are not in a position to guarantee that it will be sent earlier than the usual timeframe provided for under the Pre-Action Protocol for Judicial Review (PAP).

We cannot see any reason to justify the urgency of the response you have requested but would remind your client that if the issue is considered to be truly urgent then waiting for our PAP response is not a good reason for delaying issuing their claim.

In any event, it appears to us that any claim for judicial review on the grounds set out in your letter would be dismissed as non-justiciable - we refer you to the case of *R (on the application of A and others) v Secretary of State for the Home Department* [2022] EWHC 360 (Admin). In light of this authority we would be grateful if you could confirm whether your client requires any formal PAP response.

██████████ - Head of Division

██████████ - Deputy Director, Team Leader Constitutional & Social Care Public Law



Further information relevant to the *Creating a smokefree generation and tackling youth vaping* consultation

As your letter relates to the *Creating a smokefree generation and tackling youth vaping* consultation that closes on the 6 December 2023 the SoS is content to provide some clarifying information about the consultation as a matter of courtesy.

The government is consulting against the policy proposals being considered. Throughout the consultation there are free text boxes for respondents to provide further information, including to express disagreement with the options suggested or the premise of the question. The free text boxes allow for respondents to make alternative suggestions.

An organisation or individual sharing professional views on behalf of an organisation can already upload documents to support their response at the end of the survey. However, to make this clearer, we have amended language on the consultation landing page to make it clear that uploads can be made within the survey and provided an email address for any issues respondents may have in completing the survey. This now reads:

If you're responding as an individual sharing your professional views or on behalf of an organisation, you may upload a document to support your response at the end of the survey. Please do not upload information that could identify an individual or member of the public.

If you have any issues completing the online survey, contact sfaconsultation@dhsc.gov.uk. Please do not include any personal information in your email.

Yours sincerely

[Redacted signature]

[Redacted name]

For the Treasury Solicitor

D [Redacted]
F [Redacted]
E [Redacted]