

Regulatory and Audit Committee

Title:	Enforcement of The Children and Young Persons (Protection from Tobacco) Act 1991
Date:	October 2013
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Electoral divisions affected:	All

Summary

A statutory requirement to consider enforcement activity to prevent underage sales of cigarettes covering the period April 2014 to March 2015.

Recommendation

To note and agree the report as a reflection of activity over the financial year 2012 - 2013 and agree the programme of enforcement activities to be undertaken in 2014 - 2015 as detailed below:

- **Help people to live healthy lifestyles, make healthy choices and reduce health inequalities by ensuring that our work supports the delivery of the Public Health improvement outcomes and responsibilities that relate to the use of tobacco.**

This work may include

- **Establishing the prevalence of sales of illegal tobacco and intervening appropriately with regulatory partners to reduce this**
- **Use local, regional and national resources to ensure we target our resources appropriately.**
- **Promote the use of the Challenge 25 Training Pack to help prevent under-age sales by local retailers**



INVESTOR IN PEOPLE



- **Ensure statutory warning notices are displayed in premises where tobacco is sold and advise traders about the legislation.**
- **Ensure that the restrictions on tobacco advertising in retail premises are adhered to.**
- **Ensure that the restrictions on selling from tobacco vending machines are adhered to.**
- **If robust intelligence is received, and it is appropriate to do so, conduct test purchases and consider appropriate enforcement action against traders who sell to underage children.**
- **Where intelligence suggests it is appropriate, explore alternative means of detecting sales other than by test purchases, particularly where it is apparent sellers know the purchasers concerned.**
- **Continue to participate in the Public Health Agenda and other new projects and initiatives that fit within our enforcement activities outlined above together with our own initiatives when they are felt necessary.**

Resource implications

There are no extra resource implications if the recommendations are agreed as they can be delivered from within current anticipated resources.

Legal implications

There are no legal implications associated with this decision.

Local Member implications

Whilst there are no particular concerns about individual Wards in the County at this time we intend to explore relevant data to establish if there are particular issues. If there are issues in a local area the local Members will be advised appropriately.

Other implications/issues

It is a duty under the Act for the Authority to consider, at least once in every period of twelve months, the extent to which it is appropriate within the Authority to carry out a programme of enforcement action to give effect to the provisions of the Act. This duty relates to tobacco enforcement only, it does not require consideration of the enforcement of other age-restricted products.

There is no mandatory or minimum level of enforcement specified. Work in relation to tobacco sales, however, inevitably links closely with our other underage sales duties including alcohol, solvents, fireworks and offensive weapons. It also links with the high profile given to reducing smoking and tobacco use which will be a key priority of the local Health and Wellbeing Strategy being driven by Buckinghamshire County Council.

Intelligence data shows that under 18s continue to buy their own cigarettes, facilitated by a minority of Bucks traders who are willing to sell them. It is recognised that the earlier a person

starts smoking, the harder it is for them to stop and that younger people are more likely to start smoking than older people.

The close links Trading Standards have established with local communities (e.g. via LAFs and neighbourhood policing units) are enabling us to obtain contemporaneous and higher quality intelligence which means we can better respond to local concerns by more effective targeting of resources.

Effective enforcement, together with education, can be a powerful weapon in the fight to reduce the number of young people who start smoking. The proposed broad range of activity, from proactive, preventative work (such as the information packs for business) through to appropriate enforcement action, will support this aim.

Tobacco enforcement links closely with our other underage sales duties, in particular alcohol, fireworks, offensive weapons and solvents. All of these have been linked to anti-social behaviour and how safe people feel within their communities. Tobacco use among young people is considered a risk taking behaviour and those who engage in this activity may be more likely to take other risks such as engage in drug and alcohol abuse.

This report on tobacco enforcement is an issue that particularly affects young people.

The proposed plan is felt to meet the increased need of advisory and enforcement work without imposing too great a burden on honest traders or the Service.

In order to give a better clarity to the work being done and to reflect the rate of change of issues, the following section will look back at 2012/13 and give a précis of current issues.

The programme for the financial year 2012/2013 was as follows:-

i Use all complaints to provide intelligence to target resources correctly.

15 complaints were received regarding 15 premises where under age sales of cigarettes and possible sales of illegal tobacco were alleged. Those premises that were the subject of a complaint were added to our data base for intelligence-led future work.

ii Ensuring statutory warning notices are displayed in premises where tobacco is sold and advising traders about the legislation

Advice continues to be frequently provided to traders either where a need is identified or a request made.

iii Ensuring that the restrictions on tobacco advertising in retail premises are adhered to.

These regulations restrict the size and type of tobacco advertising at point of sale. No intelligence to suggest non compliance was received.

iv. Where appropriate issue to trader's Challenge 25 Training Pack to help avoid age restricted sales.

Advice continues to be frequently provided to traders either where a need is identified or a request made. This is particularly relevant and helpful for small independent retailers who do not have their own company materials to use.

v Explore alternative means of detecting sales other than by test purchases, particularly where it is apparent sellers know the purchasers concerned.

Surveillance exercises with police and police community support officers at premises thought to be selling to local underage persons are an available strategy. These exercises are highly resource intensive, so are considered 'last resort'. However the service has continued to work in partnership with Police neighbourhood teams to gather intelligence about sales patterns to enable better targeting of suspected premises. The police do have the power to confiscate tobacco from under age persons but rarely exercise this power.

vi Continue to participate in those new projects and initiatives that fit within our enforcement activities outlined above together with our own initiatives where they are felt necessary.

We participated in a project across the Thames Valley Region alongside Crimestoppers to raise awareness of problems related to Illegal Tobacco. Traders were visited and provided with Crimestoppers Advice Packs concerning illegal tobacco. Partner organisations including the police, District Authorities and Bucks NHS Trust were also supplied with educational material to disseminate.

The Tobacco Advertising and Promotion (Display) (England) Regulations 2010 banned the display of cigarettes in large stores (a shop which has a relevant floor area exceeding 280 square metres) as of 6th April 2012; this ban will apply to all other shops from 6th April 2015. So far there have been no problems related to this ban.

The Department of Health's: **Healthy lives, healthy people: a tobacco control plan for England [March 2011]** sets out how tobacco control will be delivered in the new public health system, particularly what action the Government will take over five years to reduce rates of smoking and support comprehensive tobacco control in local areas. We are continue to work with Public Health colleagues to explore the most effective ways we can contribute to the delivery of the relevant Public Health outcomes that relate to the use of tobacco.

The 'Buckinghamshire Alliance for Action on Smoking' initiative continues and has produced a 2012-2015 local Plan for a Tobacco Free Buckinghamshire; this Service assists in the delivery of this plan. The Alliance is also providing limited funding as a contribution to our work relating to establishing the prevalence of sales of counterfeit tobacco in the County.

Feedback from consultation, Local Area Forums and Local Member views (if relevant)

There has been no local consultation.

Background Papers

Children and Young Persons (Protection from Tobacco) Act 1991

Draft Health & Wellbeing Strategy

Health Act 2006

The Tobacco Products (Manufacture, Presentation and Sale) (Safety) (Amendment) Regulations 2007

Health Act 2009

The Tobacco Advertising and Promotion (Display)(England) Regulations 2010

Tobacco Advertising and Promotion (Display and Specialist Tobacconists) (England) (Amendment) Regulations 2011

The Protection from Tobacco (Sales from Vending Machines) (England) Regulations 2010

Trading Standards Service Statistics

Healthy Lives, healthy people: a tobacco control plan for England [9 March 2011]

Copies may be obtained from the Contact Officer.
