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## Meeting of the Executive Member for Neighbourhood Services

15 October 2008

Report of the Director of Neighbourhood Services

### Sales of Age Restricted Products

#### Summary

1. To inform members of the work undertaken by the council's trading standards service to prevent the sales of age-restricted products.
2. To seek specific member approval for the programme of action for the next 12 months in relation to the enforcement of:-
  - i) The Children and Young Persons (Protection from Tobacco) Act 1991 in relation to cigarettes/tobacco.
  - ii) The Anti-Social Behaviour Act 2003 in relation to aerosol paint.

In relation to these two particular areas, members are required to approve the plan of action each year.

#### Background

3. Legislation exists to help prevent a range of potentially dangerous/anti-social products being accessible to young people. The products regulated with age-restrictions include alcohol (minimum age 18), fireworks (18), certain video games (18), cigarettes (18), knives (18), spray paint (16) and solvents (16). In recent years trading standards officers have carried out education and enforcement work in all of these areas. Other age-restricted products that have not been part of the trading standards work programme in recent years include films (12,15,18) and petrol (16).
4. At the meeting of the Executive Member for Neighbourhood Services on 6 September 2007, it was decided that the Council should continue with a programme of education and enforcement, adopting a flexible approach to taking formal action against offenders. The programme of education and enforcement is as follows:
  - Visits to premises to advise on legal requirements and the steps that may be taken to avoid illegal sales. The visits also include checks that legal notices are correctly displayed.

- Promotion of the 'Responsible Retailer Scheme' to off-licensed premises, and the 'Best Bar None Scheme' to on-licensed premises.
  - Respond to complaints made by residents.
  - Respond to intelligence from the police, other council departments and enforcement bodies about illegal sales.
  - Conduct test purchases using volunteer children, under the supervision of officers, to check compliance and take appropriate action following illegal sales.
  - Targeted publicity about underage sales work.
5. Test purchases are carried out in accordance with national guidelines issued by the Local Authority Co-ordinators of Regulatory Services (LACORS). The guidelines include that the test purchasers should not appear older than their true age, and must tell the truth about their age if asked. Officers remain within the sight and earshot of the young volunteers at all times to ensure that their welfare is not compromised and that a trader is not tricked into making a sale that they wouldn't have made. The table in Annex 1 shows the number of attempted test purchases made and the number of sales for each product over the last 5 years.

## **Alcohol**

6. As part of the council's Local Public Sector Agreement (LPSA2) trading standards were tasked to reduce the level of underage sales of alcohol to below 10% by April 2008 (taken as an average over two years). The initial grant that accompanied that agreement included appointing a specific 'Underage Sales' officer who would introduce a 'Responsible Retailer Scheme' to raise standards and recognise those premises committed to tackling underage drinking. This scheme, which compliments the 'Best Bar None' scheme designed to raise overall standards in 'on-licensed' premises, was launched in October 2006. There are currently 46 members of the scheme. The criteria of the Responsible Retailer scheme are set out in Annex 2.
7. Enforcement action, through test purchasing exercises has followed the education work. The trend towards declining sales continued, there were 291 visits in total in 2007-8, resulting in 23 sales (8%). The total no. of visits in 2006-8 was 563 and the total no. of sales was 56, the level of sales was therefore 9.95% ensuring that the LPSA2 target was successfully achieved.
8. In April 2007, the law enabled the Chief Officer of police to authorise trading standards officers to issue fixed penalty tickets where illegal sales occur. Trading Standards Officers have asked the Chief Officer of Police to authorise the issuing fixed penalty tickets (as agreed at the Meeting for the Executive Member for Neighbourhood Services in December 2006). The law has also changed so that premise licence holders may be prosecuted where three sales occur in less than three months. There have been no examples of sales at this rate in York. The government are considering proposals to reduce this to two sales in three months. There have been some examples of sales at this lower rate.

## **Tobacco**

9. Officers have continued to undertake a programme of education and enforcement in relation to illegal tobacco sales.
10. On 1 October 2007, the minimum age for purchasing cigarettes was raised to 18. The Department of Health lead the publicity campaign in the 'run up' to the change in the law, and trading standards undertook educational work to compliment the advice of the Department of Health including press releases and visits to retailers where appropriate. Officers also checked that the appropriate 'tobacco warning notices' were displayed and tobacco advertising restrictions are complied with.
11. A programme of test purchases using 15-16 year old volunteers followed the education programme – there were no illegal sales.
12. The trading standards service are to receive £8,162.04 of funding from the Department of Health in 2008-9 (via the Yorkshire & Humber Trading Standards group) to assist education and enforcement work in relation to tobacco. The Department of Health has agreed that the trading standards service use the money to run a promotional campaign (on bus shelters near to secondary schools and at the cinema) to publicise our work, and to encourage those concerned about illegal sales to contact the trading standards service. The service also intends to undertake a series of test purchases based on intelligence/complaints received and to include targeting vending machines.

## **Fireworks**

13. Officers have continued to undertake a programme of education and enforcement in relation to illegal fireworks sales.
14. Traders will again be sent a guidance leaflet on all aspects of the law relating to firework sales with their registration certificate - businesses must register with the council if they wish to sell fireworks. Officers will then visit retailers to check storage conditions, check for the sale of 'banned' fireworks i.e. those not complying with noise limit requirements and those which are 'unsafe'. Verbal advice is given on preventing underage sales, and checks made to ensure the correct notices are displayed.
15. There were two illegal sales from the 13 visits in 2008-9.

## **Spray Paint**

16. Officers continue to monitor 'intelligence' from the police and other council officers to target suppliers. It is noted that there does appear to be a problem with youths using marker pens in graffiti which are not controlled by legislation. Officers have visited traders during the police led 'weeks of action' asking them to consider not selling marker pens to youths if they suspect they may be used in vandalism.

## **Consultation**

17. In April 2004, The Talk About Panel (Survey 19) were asked to prioritise issues for Environmental Health and Trading Standards services. The issues that they were asked about were those that the council has a discretion over the level of service it can provide (i.e. Although enforcement is a duty, no minimum criteria is specified). 60% of respondents said that the top priority for the service was preventing the sale of alcohol, cigarettes and solvents to children.

## **Options**

18. Option 1: The council should continue with the programme of education and enforcement action set out in paragraph 4 for the next 12 months.
19. Option 2: The Council may adopt a different programme of education enforcement

## **Analysis**

20. Option 1 Will permit officers to continue with a programme of enforcement activity which has resulted in a general reduction in underage sales.
21. Option 2: Any other programme will have to consider the impact it would make in reducing sales of age restricted products.

## **Corporate Priorities**

22. The trading standards work on tackling illegal sales of age restricted products links to the following corporate priorities.

“Reduce the actual and perceived impact of violent, aggressive and nuisance behaviour on people in York”.

“Improve the health and lifestyles of the people who live in York, in particular among groups whose levels of health are the poorest”.

## **Implications**

- **Financial:**

23. There are no financial implications associated with this report, other than the additional funding referred to in paragraph 12.

- **Human Resources (HR):**

24. There are no HR implications associated with this report.

- **Equalities**

25. There are no equalities implications associated with this report
- **Legal:**
26. The Council are legally obliged to consider its activities in relation to tackling underage sales of alcohol, spray paint and cigarettes each year. Members are being asked to make a decision on enforcement action.
- **Crime and Disorder**
27. The links to tackling crime and disorder have been highlighted earlier in this report.
- **Information Technology (IT)** (*Contact – Head of IT*)
28. There are no IT implications associated with this report.
- Property**
29. There are no property implications associated with this report.
- **Other**
30. There are no other implications to consider.

### **Risk Management**

31. There is a risk of carrying out test purchasing operations in 'on-licensed' premises if the support of North Yorkshire police is withdrawn. Their services are required to respond to any breach of the peace that may arise.

### **Recommendations**

32. That the Advisory Panel advise the Executive Member notes the report and adopts the programme of enforcement action of the next 12 months.

Reason: So that the council can meet its legal obligations.

## Contact Details

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**Report Approved****Date** 08/09/2008**Wards Affected:****All**

**For further information please contact the author of the report**

## Background Papers:

Environment and Sustainability EMAP 'Sales of Age Restricted Products' report 6<sup>th</sup> September 2007.

Revised Enforcement Policy for Environmental Health, Trading Standards and Licensing, 19 March 2008.

## Annexes

***All annexes to the report must be listed here.***

Annex 1 – The results of test purchasing activity 2003-2008

Annex 2 – Responsible Retailer Scheme – Qualifying Criteria

**The results of test purchasing activity 2003-2008**

Product	2003/4		2004/5	
	No of visits	Illegal Sales	No. of visits	Illegal Sales
Alcohol	62	21 (34%)	64	11 (17%)
Tobacco	4	0 (0%)	8	0 (0%)
Fireworks	17	0 (0%)	35	4 (11%)
Solvents	N/a	N/a	6	3 (50%)

Product	2005/6		2006/7	
	No. of visits	Illegal Sales	No of visits	Illegal Sales
Alcohol	195	29 (15%)	272	33 (12.1%)
Tobacco	3	0 (0%)	10	0
Fireworks	28	0 (0%)	31	6 (19.4%)
Spray Paint	38	0 (0%)	7	0
Computer Games	7	0 (0%)	N/a	N/a
Knives	N/a	N/a	21	2 (9.5%)

Product	2007/8	
	No. of visits	Illegal Sales
Alcohol	291	23 (8%)
Tobacco	11	0 (0%)
Fireworks	13	2 (15%)
Spray Paint	1	0 (0%)
Knives	N/a	N/a

**Responsible Retailer Scheme – Qualifying Criteria**

- The retailer must display a sign stating that it is illegal to sell alcohol to persons under 18.
- The retailer and staff always ask young people their age. If anyone appears to be under the age of 21 they will ask for proof of age.
- The retailer and staff will only accept proof of age with a 'PASS' logo, passport or a new style driving licence before they sell alcohol.
- The retailer's customers confirm that they have not seen any illegal sales in my shop by signing a petition (50 for a small enterprise, 150 for a medium and 300 for a large).
- The retailer will train staff on our policy regarding under age sales when they commence employment at regular intervals thereafter.
- The retailer will maintain records of staff training and produce it to trading standards staff on request.
- The retailer and staff maintain a refusals note book and monitor entries taking appropriate action where appropriate (such as re-training members of staff).
- The retailer will display customer/staff posters as appropriate
- The retailer will accept that trading standards officers may check that the retailer is complying with the scheme and if not the membership could be cancelled.