
Decision Session - Executive Member for Neighbourhoods

17th November 2009

Report of the Director of Neighbourhood Services

Sales of Age Restricted Products

Summary

1. To inform the Executive Member for Neighbourhoods of the work undertaken by the council's trading standards service to prevent the sales of age-restricted products.
2. To seek the approval of the Executive Member for Neighbourhoods 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), aerosol 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 and Advisory Panel on 15 October 2008, 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 make 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. In 2006, the trading standards service introduced a 'Responsible Retailer Scheme' to raise standards in 'off-licences' and recognise those premises committed to tackling underage drinking. The scheme compliments the 'Best Bar None' scheme which is designed to raise overall standards in 'on-licensed' premises. There are currently 46 members of the 'Responsible Retailer Scheme'. The criteria of the Responsible Retailer scheme are set out in Annex 2.
7. Where illegal sales occur in 'off licence' premises, formal action (either a caution or prosecution) has been taken against the seller. Where sales occur in 'on-licensed' premises, the police (who accompany trading standards officers on these visits) have issued £80 fixed penalty notices to the seller. The Chief Officer of North Yorkshire Police has now accredited trading standards officers to issue police fixed penalty notices where sales occur in 'off licensed premises'. This will ensure that enforcement action is now consistently applied in both 'on-licensed' and 'off licensed' premises.
8. The law allows premise licence holders to be prosecuted where three sales occur in less than three months. There have been no examples of sales at this rate in York.

Tobacco

9. Officers have continued to undertake a programme of education and enforcement in relation to illegal tobacco sales.
10. In 2008/09, the trading standards service received £8,162.04 of funding from the Department of Health (via the Yorkshire & Humber Trading Standards group) to assist education and enforcement work in relation to tobacco. We ran 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. We also undertook a series of test purchases based on intelligence/complaints received including the targeting vending machines. The targeting of vending machines and the raise in the legal age for buying tobacco (meaning that older volunteers were used) gives rise to the sharp rise in the level of illegal sales compared to previous years.

Fireworks

11. Officers have continued to undertake a programme of education and enforcement in relation to illegal fireworks sales.
12. 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.

Aerosol Paint

13. 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.

Knives

14. In response to the publicity surrounding youths involved in knife crime last year, officers undertook a programme of education and enforcement to help prevent the illegal sale of knives in the City. There was only one illegal sale for which the proprietor was invited to sign a caution. However, he declined that invitation and the matter is due to be heard in court on 8 October 2009.

Video Games

15. Between April and June this year as part of an initiative funded by the Department for Children, Schools and Families and the Department for Culture, Media and Sport we asked some 15 year old volunteers to attempt to purchase age-restricted video games. There were 7 attempted purchases and no sales.

Consultation

16. 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. Residents are to be consulted again on this again in the Talk About panel survey being undertaken in October 2009.

Options

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

Analysis

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

Corporate Priorities

21. The trading standards work on tackling illegal sales of age restricted products links to the following priorities from the Corporate Strategy.

“Reduce alcohol related crime in York”. (Safer City)

“...tackle the public perception of anti-social behaviour”. (Safer City)

“We will improve the well-being, and support the independence of York residents” (Healthy City)

Implications

Financial:

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

Human Resources (HR):

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

Equalities

24. There are no equalities implications associated with this report

Legal:

25. 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

26. The links to tackling crime and disorder have been highlighted earlier in this report.

Information Technology (IT)

27. There are no IT implications associated with this report.

Property

28. There are no property implications associated with this report.

Other

29. There are no other implications to consider.

Risk Management

30. 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

31. That the Executive Member for Neighbourhoods 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 23/09/2009

Wards Affected: *List wards or tick box to indicate all*

All

For further information please contact the author of the report

Background Papers:

Environment and Sustainability EMAP 'Sales of Age Restricted Products' report 15th October 2008.

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

Annexes

Annex 1 – The results of test purchasing activity 2004-2009

Annex 2 – Responsible Retailer Scheme – Qualifying Criteria

Annex 1

The results of test purchasing activity 2003-2008

Product	2004/5	
	No. of visits	Illegal Sales
Alcohol	64	11 (17%)
Tobacco	8	0 (0%)
Fireworks	35	4 (11%)
Solvents	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%)
Aerosol 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		2008/9	
	No. of visits	Illegal Sales	No. of visits	Illegal Sales
Alcohol	291	23 (8%)	71	6 (8.5%)
Tobacco	11	0 (0%)	61	11 (18%)
Fireworks	13	2 (15%)	10	0 (0%)
Aerosol Paint	1	0 (0%)	N/a	N/a
Knives	N/a	N/a	25	1 (4%)

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.