

**Notice of a public meeting of
Decision Session - Cabinet Member for Communities**

To: Councillor Simpson-Laing (Cabinet Member)
Date: Monday, 22 December 2014
Time: 11.00 am
Venue: The Thornton Room - Ground Floor, West Offices (G039)

A G E N D A

Notice to Members - Calling In:

Members are reminded that, should they wish to call in any item* on this agenda, notice must be given to Democratic Services by:

4:00 pm on Wednesday 24 December 2014 if an item is called in *after* a decision has been taken.

*With the exception of matters that have been subject of a previous call in, require Full Council approval or are urgent which are not subject to the call-in provisions. Any called in items will be considered by the Corporate and Scrutiny Management Committee.

Written representations in respect of item on this agenda should be submitted to Democratic Services by **5.00pm on Friday 19 December 2014**.

1. Declarations of Interest

At this point in the meeting the Cabinet Member is asked to declare:

- any personal interests not included on the Register of Interests
 - any prejudicial interests or
 - any disclosable pecuniary interests
- which she may have in respect of business on this agenda.

2. Minutes (Pages 1 - 2)

To approve and sign the minutes of the meeting held on Thursday 4 December 2014.

3. Public Participation

At this point in the meeting, members of the public who have registered their wish to speak at the meeting can do so. The deadline for registering is **5.00pm on Friday 19 December 2014.**

Members of the public may register to speak on an item on the agenda or an issue within the Cabinet Member's remit.

Filming or Recording Meetings

Residents are welcome to photograph, film or record Councillors and Officers at all meetings open to the press and public. This includes the use of social media reporting, i.e. tweeting. Anyone wishing to film, record or take photos at any public meeting should contact the Democracy Officer (whose contact details are at the foot of this agenda) in advance of the meeting.

The Council's protocol on Webcasting, Filming & Recording of Meetings ensures that these practices are carried out in a manner both respectful to the conduct of the meeting and all those present. It can be viewed at

http://www.york.gov.uk/downloads/download/3130/protocol_for_webcasting_filming_and_recording_of_council_meetings

4. Changes to City of York Council Housing Tenancy Agreement. (Pages 3 - 20)

This report seeks approval for proposed changes to the tenancy agreement for all existing and future council housing tenants, in particular significant changes to succession rights.

5. Housing and Community Safety Legal Actions (Pages 21 - 44)

The purpose of this report is to enable the Cabinet Member for Communities to review the results of legal actions (prosecutions, cautions and fixed penalties) undertaken by Environmental Health, Trading Standards, Licensing, the Regional Scambuster Team, and the National Trading Standards eCrime Centre as well as action taken by Housing Services for the period 1 April 2014 to 30 September 2014

6. Sales of Age Restricted Products (Pages 45 - 60)

This report informs the Cabinet Member of the work undertaken by City of York Council Trading Standards Service to prevent the illegal sales of age-restricted products.

7. Urgent Business

Any other business which the Chair considers urgent under the Local Government Act 1972.

Democracy Officer:

Name: Judith Betts

Contact Details:

- Telephone – (01904) 551078
- E-mail – judith.betts@york.gov.uk

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

 **(01904) 551550**

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City of York Council

Committee Minutes

Meeting	Decision Session - Cabinet Member for Homes & Safer Communities & Cabinet Member for Finance & Performance (Joint Decision Session).
Date	4 December 2014
Present	Councillors Simpson-Laing and Williams

44. Declarations of Interest

The Cabinet Members were asked to declare any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests they may have in the business on the agenda. None were declared.

45. Minutes

Resolved: That the minutes of the Decision Session – Cabinet Member for Health, Housing and Adult Social Services meeting held on 3 February 2014 and the minutes of the Decision Session – Cabinet Member for Finance and Performance held on 20 November 2014 be approved and signed as a correct record.

46. Public Participation

It was reported that there were no registrations to speak at the meeting under the Council's Public Participation scheme.

47. New Council House Build Programme Phase 1 - Replacement Site

The Cabinet Members considered a report which sought approval to pursue a site at Pottery Lane for new council housing as a replacement for the York Road, Haxby site approved by Cabinet in May 2013.

Officers gave an update on progress on new council house building and explained the reasons why, following a detailed

assessment of the York Road, Haxby site, it had been deemed unsuitable for development at this stage. Details were given of the alternative site that had been identified on Pottery Lane. A feasibility study had indicated that this could provide six new two-bedroom family houses. Should a decision be taken to proceed with the site a public information event would take place in advance of the submission of any planning application. It was estimated that the total scheme costs would be in the region of £830,000.

The Cabinet Members gave consideration to the following options:

- Option 1 – the use of a site at Pottery Lane for new council house building as an alternative to York Road, Haxby.
- Option 2 – officers identify a further alternative site to York Road, Haxby.
- Option 3 – no replacement site is sought for York Road, Haxby and phase one of the new council housing remains at the 65 homes already identified.

Resolved: That Option 1 in the report i.e. the use of the Pottery Lane site for new council house building be approved, with authority delegated to the Assistant Director for Housing and Community Safety to approve the budget and funding route.

Reason: To allow the aim of building 70 new council homes, as previously approved by Cabinet, to be met - delivering high quality affordable homes in the shortest possible timeframe.

Councillor Simpson-Laing, Cabinet Member
[The meeting started at 11.45 am and finished at 12.00 pm].



**Decision Session of the Cabinet Member for
Communities****22 December 2014**

Report of the Assistant Director – Housing & Community Safety

Changes to The Housing Tenancy Agreement**Summary**

1. This report seeks approval for proposed changes to the tenancy agreement for all existing and future council housing tenants, in particular significant changes to succession rights.

Background

2. The current tenancy agreement last underwent significant review in 2004. In recent years there have been a number of legislative changes that are not reflected in the current agreement and as a result, Housing and Legal Services have been looking at potential changes to the tenancy agreement to reflect said legislative change. As part of this review consideration has also been given to clarifying and re-word clauses within the agreement to address issues that have arisen through management of the councils tenancies.
3. A significant change in legislation was introduced as part of The Localism Act 2011 which changed the rules around who could inherit a tenancy on the death of a tenant, we therefore need to consider what changes to make as a result of this legislative change.
4. As part of the council's housing stock, we manage not only general needs homes, but a number of sheltered housing schemes. It has become clear in recent years that a bespoke sheltered accommodation agreement (based on the general agreement) would enhance the council's ability to effectively manage the sheltered schemes.
5. The proposed changes are attached at (Annex 1) and the proposed wording for a new section in the tenancy agreement specific to sheltered accommodation for consultation on is attached at (Annex 2)

6. Most of these proposals do not constitute any major changes to the rights that tenants have but do make it clearer what their responsibilities are. They are based on the learning arising from the cases that we have dealt with along with case law that has developed in recent years. Legal Services have been involved in drafting these changes

Consultation

7. The proposed changes have been developed with front line Housing staff and Legal Services. As part of the development of these changes, consultation has been carried out with The Federation and Residents Associations who are in agreement with the proposals. Changes for consideration arising from the consultation so far are indicated in Annex 1 and Annex 2.
8. A formal period of consultation will take place with all residents over a period of 6 weeks subject to Cabinet Member agreement of the proposals. All customers will be written to outlining the proposed changes, the implications of these and given the opportunity to comment before final changes are agreed and customers given notice of these along with the rent increase at the end of February 2015.

Proposed changes to succession rules

9. One of the most significant proposed changes is to amend the rights to succession. Succession is the ability to inherit a tenancy when the tenant dies. The proposed changes are aimed to bring the tenancy agreement into line with the Localism Act.. To understand the proposed changes the existing and new proposals are set out below.

Current Position

10. When a tenant dies, the tenancy passes to the tenant's husband, wife, or partner, if at the time of the tenant's death they were living together as a couple (this includes couples of the same sex) and they were living in the property as their only or main home when the tenant died.
11. If the tenant was not married and did not have a partner, the tenancy passes to a qualifying relative but only if at the date of death, they were living with the tenant without a break for the previous 12 months.
12. A qualifying relative can be parents, grandparents, children, grandchildren, siblings, uncles, aunts, nephews and nieces; including step-relations, half-relations and illegitimate children.

13. In law there is only one statutory succession to a tenancy, however our policy allows for a 'second' succession. Given that the law does not recognise a second succession, if there are any problems associated with this 'second' succession it is impossible to get determinations on this through the courts
14. Where a tenancy was originally a joint tenancy and one of the joint tenants dies, or surrenders their interest and the tenancy becomes a sole tenancy, this counts as a succession.
15. The first succession is to the property in question, however a second succession could be to a property of a more suitable size if the property is too large or adapted for someone with disabilities. If the customer refused the offer of other properties an application would have to be made to court to end the original tenancy.
16. If a second succession meant that the customer had to move or a succession was denied the customer has the right of appeal to Councillors.

Proposed Position

17. The Localism Act 2011 has, since 1 April 2012 amended the statutory succession rights of new secure tenants. Statutory succession to a secure tenancy entered into after 1 April 2012 in England only applies to the spouse or civil partner of the deceased tenant. The council landlord may, at its discretion, contractually provide for more extensive succession rights.
18. It is proposed that the Council amended its tenancy agreement and policy to mirror these legislative changes. Key changes will be:
 - Changes to the who can succeed to a tenancy;
 - Removal of the automatically right to a second succession;
 - Introduce minor amendments for Sheltered Schemes.
19. The rights of existing secure tenants at 1 April 2012 (and the succession rights of people living with them) are also, as yet, unaffected by the changes in the law.
20. It is necessary for policy to be brought in to line with the legislation and this needs to be done by amending the tenancy agreement to reflect this

Additional comments

21. The intention of this piece of legislation was to allow social landlords greater ability to make best use of their stock and ensure homes were allocated to people in genuine housing need, particularly where family housing is in very short supply, as is the case in York.
22. Housing Services have experienced a number of expensive legal challenges posed by people claiming succession rights through the courts over the last few years based on the extended rights to succession currently available through the City of York Council tenancy agreement and procedures. For example a person who had lived in a property for less than a week claimed to be the deceased's partner and claimed succession rights resulting in a long delay in letting the property, lost income and legal fees.
23. The council's current policy on succession was formed at a time when there was a much larger supply of council homes generally and there was not a position where the demand far outstripped the supply. The new legal position and proposed policy will enable the council to ensure its homes are allocated those in need.
24. Customers not qualifying for a succession can be accepted as at risk of homelessness where they are in priority need (have children, are pregnant, suffer severe ill health or vulnerable for example) and housed elsewhere through the North Yorkshire Home Choice (NYHC) lettings policy or by providing other suitable accommodation.
25. Where customers do not qualify for a succession because these rights only extend to spouse / civil partner, if adopted, there is provision under the NYHC policy to allow a direct let to another property on a discretionary basis. This could be done in cases where it is proven that the circumstances are exceptional e.g. the person(s) in question have lived at the property for a considerable portion of their lives, been a carer for the deceased tenant or they are vulnerable in some way
26. All other customers can seek help with finding a new home through the Council's Housing Options service. In addition, all customers can ask for an appeal to councillors through the Housing Appeals sub committee

Options

27. Option 1 - Retain the existing tenancy agreement

28. Option 2 - Agree the proposed changes to succession rights to bring the tenancy agreement in line with current legislation and to consult with sheltered scheme tenants regarding the proposed amendments to agreements for Sheltered Schemes.
29. Option 3 – Reduce the existing succession rights but not to the level set out in the Localism Act and who these can apply to along with other changes and to consult with sheltered scheme tenants regarding the proposed amendments to agreements for Sheltered Schemes.

Analysis

30. Option 1 - The problems as outlined in the background section would continue and the tenancy would remain unclear or silent on many issues.
31. Option 2 - This makes the succession issue clear cut and is the recommendation of Legal services. Housing and other needs can be met through the North Yorkshire Home Choice Policy or Housing Advice. All customers have the right to have their case heard by the Housing Appeals sub committee.
32. Option 3 - The tenancy would be clearer on the identified issues for customers and staff but the difficulties presented by the extended succession right and the potential social and legal impact of any challenges would continue depending on the details of who could succeed and under what circumstances.
33. Using succession rights to acquire housing does not fit with the principle of allocating housing on the basis of need. As outlined in the Background section, customers can be helped in other ways, where housing and social need is evidenced. All customers have a right of appeal to the Housing Appeals sub committee.

Council Plan

34. These changes support the priorities set out within the council plan in two main ways.
 - Building Strong Communities - Through the more effective management of tenancy condition as a result of clarity on rights and responsibilities for customers we are better able to support the communities.

- Protect vulnerable people - By allowing homes to be allocated based on housing and social need rather than extended success rights we are better able to make best use of our stock and ensure properties are allocated to support those most in need.

Implications

35. The implications arising from this report are:

- **Financial** – The cost of consultation and issuing new tenancy agreements. This can be met from within existing budgets.
- **Human Resources (HR)** - None
- **Equalities** - Equality issues will be dealt with through the use of other complementary policies such as North Yorkshire Home Choice and are taken in to account when cases are heard at court. A community Impact assessment will be required following the completion of the consultation exercise.
- **Legal** – The changes will bring the council tenancy agreement in line with current legislation. This will result in fewer succession rights being claimed through the courts. Improvements in the drafting of clauses will enable officers to better manage tenancies where breaches of tenancy clauses take place and should help prevent the need for litigation. Where litigation is necessary clearer tenancy clauses will result in improved ability to address issues through the courts.
- **Crime and Disorder** – The proposed changes will help Housing Services take action against those individuals in breach of their tenancy agreement and reduce the impact of anti-social behaviour.
- **Information Technology (IT)** - None
- **Property** - None

Risk Management

36. The main risk arising from this report is as a result of customers challenging the council as a result of their reduced succession rights.

However, as has been set out within the report, these changes are to bring the council's current policy in line with the recent changes to legislation. The impact of these changes on customers can be mitigated through the application of other council policies, i.e. The North Yorkshire Home Choice policy. The risk is therefore low.

Recommendations

37. The Cabinet Member is asked to:

- Approve Option 2 and agree the proposed changes including succession rights to bring the tenancy agreement in line with current legislation and to consult with Sheltered Housing Tenants on the changes specific to their housing schemes.

Reason: This will bring the tenancy agreement in line with the Localism Act and other changes identified and agreed through consultation. This will reduce the risk of expensive legal challenge and maximise the use of the authority's council housing stock.

Contact Details

Author:

Denis Southall

Housing Landlord Service
Manager
Housing Services
Tel No. 1298

Chief Officer Responsible for the report:

Steve Waddington

Assistant Director – Housing & Community
Safety

**Report
Approved**

Date

11th December 2014

Wards Affected: List wards or tick box to indicate all

All

For further information please contact the author of the report

Background Papers:

None

Annexes

Annex 1 – Summary of proposed changes

Annex 2 – Sheltered Housing Agreement – proposed change for consultation

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Summary of changes to the tenancy agreement

The Right to improve your home - wording to clarify that tenants need permission to carry out improvement works or to decorate fixtures not normally decorated but not for decoration to walls, ceilings and doors where appropriate. This is to prevent people from painting kitchens, tiles etc

The Right to succession – limiting succession to partner/spouse and removing ‘contractual’ succession in line with current legislation.

The Right to take in a lodger – informing tenants that they must inform Housing Benefit and Housing.

The Right to sub-let part of your home – telling tenants they must inform housing benefit and Housing.

Former Tenant arrears – informing them that we will apply to court for possession or other appropriate action if they do not pay FTAs.

Notice – Requirement to return keys by 10am on a Monday to avoid rent for that week.

- Can hand them in to West Offices or another office by pre arrangement.
- Must not leaving keys with anyone else
- We will recharge for any work necessary for replacing keys and for rent loss incurred by a delay in returning the keys.
- Notification that we may apply to change gas and electric supplier
- Requirement to give a forwarding address
- Requirement to give the name of someone who would deal with their affairs in the even of a death.
- If the tenant fails to leave the property in a clean and tidy condition, or leave behind unwanted furniture they will be recharged for additional costs that the Council incur

Access to the Property during the Notice Period – Requirement to allow access to council staff during notice period, allowing repairs to be carried out, allowing photos to be taken and prospective tenants to be shown around.

Repairs – gives a list of repairs that tenants are responsible for and informs tenant that they may change from time to time

Access to property – requirement to allow access for annual tenancy inspections (or similar) and take photographs

Notification that tenant will be recharged for an emergency call out or wasted call by a gas engineer if there is no credit on the meter and a further call out has to take place.

If no access allowed for gas service we may apply to court for a injunction order or a possession order

Communal Areas – We will remove any items left in communal to keep environment sterile.

Gardens, outbuildings and other external areas –

You must keep your garden neat and tidy this includes managing the lawn, removing weeds, pruning hedges and shrubs. **If the garden is overgrown and you do not have a good reason for not doing the work yourself, we may do the work and charge you a reasonable cost for doing it.** – part in bold to be added in.

Section on trees to be expanded to: You are responsible for any trees that are within the boundary of the Property but you cannot or arrange for anyone on your behalf, to cut down trees and hedges within the boundaries of your home without first getting written Council permission. You must not plant very large or fast growing trees or conifer species in the gardens of the property or that may cause damage, nuisance or obstruction. If you think that a tree may be dangerous you must report this to us, Where we decide that any trees or shrubs are a nuisance or dangerous we will prune, replace or remove.

Tenant cannot park a variety of vehicles including a motor home or boat within the boundaries of your home, including the front and rear garden, or take them over council owned grass verges without providing a hard standing to a specified standard and a car crossing over the pavement or path.

Caravans and motor homes can only be parked and stored within the boundary of the property and must not be used to live in, play in or sit in.

No person can reside temporarily or permanent in the front or rear garden of your property.

Communal gardens – must allow access and photos to be taken

Tenant **must not** store rubbish, furniture, household appliances or any unsightly objects in your garden, or in any shared garden.

Improvements to your home – we will take legal action if you make improvements without our written permission and do not put things right when we ask.

Health and Safety

This to be added to the list if things which are considered to compromise H&S

Interference with equipment for the supply of electric, gas, water or other utilities

Decants – if tenants do not move back to their substantive home once work is completed we will take legal action against their tenancy

Disposal of Household Waste - The Council will recharge and take action if there are persistent problems with mismanagement of waste. The tenant must their household waste bins or recycling bins and boxes out on time and bring them in promptly when they have been emptied, so as not to cause any obstructions.

Occupying the property – if a tenant is away for more than one month without notifying Housing, they will deem them as no longer living there and seek possession.

Where we suspect someone is not living at a property Housing will ask the tenant to prove to us that they are living there and will involve Veritau (fraud) and carry out checks.

Overcrowding – changed wording to statutory overcrowding and saying that we may apply for possession where the tenant has allowed this.

Sub-letting- have added that we will liaise with other agencies such as Veritau and share information if it is believed that the tenant is sub-letting without our knowledge and consent. Housing will take legal action if it is believed that the tenant has sub-let the property without our knowledge or consent and will ask the court that they pay the costs of this application.

Harassment - have added the section in **bold** You must not commit or allow member of or visitors to your household to commit any form of harassment on the grounds of race, colour, religion, sex, sexual orientation or disability which may interfere with the peace and comfort of, or cause offence to any others residing in, visiting or **offering services in the locality.**

Pets – add in section in **bold** You must keep any pets you own or are responsible for under control. **If you own a dog, this should be kept on the lead, when out in the community.** This also applies to any pets your visitors bring with them to the property

Communal (shared) Areas - have added that tenants and their visitors cannot smoke in communal areas

Tenant / visitors must not use the communal areas to congregate, especially at night as this may cause a nuisance to others in the block

False information – Tenant and their household must not commit housing related fraud which is linked to the tenancy, this includes housing related benefit fraud.

Clause on service charge for Intensive Housing Management – to allow the rent to be changed to include this service charge which will be covered by Housing Benefit for those eligible.

Items raised through consultation

Remove mention of rent card section 7 Rent and other charges

Ban pets from properties that share communal areas internally – many housing organisations operate this. Strong feeling in favour of this from Housing Estate Managers and a few of the Residents Associations have

called for this. Discussed at Fed and there was broad agreement. It was suggested existing pets are allowed until they die but replacement pets not allowed at this point. HEMs currently looking at how this could be managed. Ties into issues with inconsiderate use of communal areas, dog fouling and noise in flats / maisonettes.

Make it clear that customers with pets must have the property fumigated before handing in keys and produce a receipt to prove this.

Broad agreement for changes is succession rights but the guidance on alternative options need to be available to reassure customers.

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Changes suggested through consultation highlighted in *Italics***If you live in sheltered housing:**

Sheltered accommodation provides a supported environment primarily for older people, which includes some communal space for social activities. To meet the criteria for this type of accommodation, you must be 60 or over or have physical disability or long term health condition. All schemes are linked to an emergency alarm system and have access to an emergency alarm response service. There are additional service charges for living in sheltered housing. You may be eligible to receive help with some or all of this payment. Due to the nature of this accommodation additional responsibilities apply to tenants in Sheltered Housing.

Safety:

You must allow housing staff to enter your flat to make regular safety checks to the emergency alarm call equipment in your flat.

Smoking is not permitted in any of the communal areas of the scheme (hallways, dining room etc).

You must not keep mobility scooters or other mobility equipment (wheelchairs, walking frames etc) in communal hallways. Designated storage areas are available and may be used to store mobility scooters subject to available space. *You must not use mobility scooters inside the scheme. You must transfer to other mobility aids once inside the scheme.*

You must not encourage wild (feral) pigeons, rats, mice or grey squirrels into your home or garden/balcony areas. You must keep balcony/garden areas tidy, and not allow a build up of bird droppings.

Pets:

You may not keep a pet in your home unless you have written permission from a housing officer. Dogs must be kept on a lead at all times in communal hallways, and are not allowed in any other communal areas. Pets must not be allowed to roam free in communal areas.

Permission for pets may include reasonable conditions, and permission may be withdrawn if they cause a nuisance to other tenants living in the scheme.

You do not need permission to keep an assistance dog, and these may accompany you into communal parts of the scheme.

You must not allow pets to foul in communal garden areas of the scheme, or on footpaths outside the scheme. All waste must be disposed of responsibly.

Lodgers:

You must not overcrowd your home, and must not take in a lodger unless you have written permission from a housing officer. Any person who you have living with you as a lodger must not cause any disruption to other tenants, and permission may be withdrawn at any time if a lodger causes disruption or nuisance to other tenants.

You should note that if you take in lodgers and they pay you, this might affect your claim if you are in receipt of Housing Benefit. You must tell the Housing Benefits section of the Council about any changes in your circumstances.

We may seek possession of your tenancy if you take in an unauthorised lodger.

Succession:

When you die, your tenancy will pass to your spouse or civil partner(this includes couples of the same sex) if he or she lived in the property as their only or main home when you died. If you are not married or in a civil partnership your tenancy will not pass onto a partner or another relative, regardless of whether they are living with you on the date of your death.

Use of communal areas:

The communal areas are provided for the enjoyment of all tenants. Tenants are free to use the communal areas to arrange social activities, but these must be open to the attendance of other tenants, and may not be booked for private functions.

Communal areas must be kept tidy after use by tenants, for example clearing up after food preparation or after parties and other social gatherings. Persistent failure to do so may be regarded as a breach of your tenancy agreement

You must behave in a respectful manner towards council staff and other tenants. For example you must not swear or use other offensive language, behave aggressively, or attempt to exclude other tenants from social activities in communal areas.

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Decision Session

22 December 2014

Cabinet Member for Communities

Report of the Assistant Director for Housing and Community Safety

Housing and Community Safety Legal Actions

Summary

1. The purpose of this report is to enable the Cabinet Member for Homes & Safer Communities to review the results of legal actions (prosecutions, cautions and fixed penalties) undertaken by Environmental Health, Trading Standards, Licensing, the Regional Scambuster Team, and the National Trading Standards eCrime Centre as well as action taken by Housing Services for the period 1 April 2014 to 30 September 2014.

Background

2. The Cabinet Member for Crime and Stronger Communities approved an updated enforcement policy for Environmental Health, Trading Standards, Licensing, Street Environment and Enforcement Services in February 2012.
3. This report details the results of legal action taken in the period specified. Each case is considered on its merits before legal proceedings are instituted.
4. Annexes A and B summarise the action taken. Please note that a Simple Caution is a Home Office approved procedure which is an alternative to prosecution. It involves a written acceptance that an offence has been committed and may be drawn to the attention of a court if any subsequent offence is committed within two years of issue.

Consultation

5. Not applicable.

Options

6. Not applicable as the Cabinet Member is being asked to note the content of the report.

Analysis

7. Not applicable.

Council Priorities

8. The enforcement of the council's polices and where appropriate legal actions support the council's priorities in particular "Create Jobs & Grow the Economy, Protect Vulnerable People and Protect the Environment".

Implications

9. The implications arising from this report are:
 - **Financial:** There are no financial implications associated with this report.
 - **Human Resources:** There are no Human Resources implications associated with this report.
 - **Equalities:** There are no equalities implications associated with this report.
 - **Legal:** There are no legal implications associated with this report
 - **Crime and Disorder:** Formal enforcement action contributes to reducing anti social behaviour and dishonest trading.
 - **Information Technology (IT):** There are no IT implications associated with this report.
 - **Other:** There are no other implications associated with this report.

Risk Management

10. There are no known risks associated with this report.

Recommendations

11. The Cabinet Member is asked to note this report.

Reason: So that the Cabinet Member reviews formal enforcement activity undertaken by Environmental Health, Trading Standards, Licensing Services, the Regional Scambuster Team, the National Trading Standards eCrime Centre and Housing Services.

Contact Details

Author:

Matt Boxall
Trading
Standards Manager
Phone: 01904 551528

Chief Officer Responsible for the report:

Steve Waddington
Assistant Director (Housing and Community
Safety)

**Report
Approved**

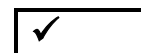


Date 12th Dec 2014

Specialist Officer Implications: None

Wards Affected:

All



Background Papers:

Environmental Health, Trading Standards, Licensing, Street Environment and Enforcement Services Enforcement Policy (February 2012)

Annexes

Annex A : Environmental Health, Trading Standards, Licensing, the Regional Scambuster Team, and the National Trading Standards eCrime Centre Formal Enforcement Action between 1 April 2014 to 30 September 2014.

Annex B: Housing Formal Enforcement Action between 1 April 2014 to 30 September 2014.

Annex C - Community Impact Assessment

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**Environmental Health, Trading Standards, Licensing, the Regional Scambuster Team, and the National Trading Standards eCrime Centre
Formal Enforcement Action 1st April 2014 to 30th September 2014**

Animal Health

3 Simple Cautions were issued under the Welfare of Animals Act 1981 for causing unnecessary suffering to an animal.

Food Unit

Defendant	Legislation	Nature of Case	Penalty	Costs
Shahin MIAH Trading as Garden of India (Proprietor)	Food Hygiene (England) Regulations 2006 (as amended)/European Communities Act 1972	Food hygiene	Fine £2,400.00 Victim Surcharge £30.00	£1581.82

A Simple Caution was issued under the Food Safety and Hygiene (England) Regulations made under the European Communities Act 1972 for failing to comply with a Community Provision to not place unsafe food on the market.

Health and Safety

Defendant	Legislation	Nature of Case	Penalty	Costs
Mark Lee CHAMBERS (Tattooist)	Local Government (Miscellaneous Provisions) Act 1982	Unregistered Tattooist	Fine £200.00 Victim Surcharge £30.00	£400.00
Poundworld Retail Ltd t/a Poundworld Retail (Retail outlet)	Health and Safety at Work etc. Act 1974 as amended	Accident at work	Fine £19,000.00 Statutory Charge £120.00	£1,823.22

Health & Safety/Licensing

4 x £50 fixed penalty notice was issued under the Health Act 2006 for smoking in a vehicle/premise.

Environmental Protection

Defendant	Legislation	Nature of Case	Penalty	Costs
Post Office Employees Social Club (Social Club)	Environmental Protection Act 1990 as amended	Breach of an abatement notice for noise nuisance	Fine £3,750.00 Victim Surcharge £120.00	£930.00

Trading Standards

Defendant	Legislation	Nature of Case	Penalty	Costs	Compensation	Confiscation
Shane FARROW (Roofer)	Consumer Protection from unfair Trading Regulations 2008	Failed to exercise professional diligence in the course of carrying out roofing repairs	12 months Conditional Discharge Victim Surcharge £15.00	£350.00 Victim Surcharge £15.00	£700.00 paid to victims prior to Court Hearing	None
Lee HOLT (Vehicle Tuner)	Trade Marks Act 1994 / Proceeds of Crime Act 2002	Counterfeit vehicle diagnostic equipment and key rings	8 months imprisonment suspended for 18 months 150hrs unpaid work	£5000.00 Victim Surcharge £100.00	None	£35,521.00

6 simple cautions were issued under the Trade Marks Act 1994 for selling counterfeit goods.

An assurance was obtained under the Enterprise Act 2002 for breaches of the Trade Marks Act 1994.

2 assurances were obtained under the Enterprise Act 2002 for contraventions of the Consumer Protection from Unfair Trading Regulations 2008 in relation to failing to provide proper cancellation rights.

2 assurances were obtained under the Enterprise Act 2002 for breaches of the Consumer Protection from Unfair Trading Regulations 2008 and The Cancellation of Contracts made in a Consumers home or place of work Regulations 2008.

Scambusters

Defendant	Legislation	Nature of Case	Penalty	Costs	Compensation	Confiscation
Amina MEER	Consumer Protection from Unfair Trading Regulations 2008	False information / claims, poor after sales service and failure to handle complaints in the course of selling airline tickets.	150 hours of unpaid work Disqualification as director or shadow director for 5 years.	None	None	None

Travel N Travel Ltd	Consumer Protection from Unfair Trading Regulations 2008	False information / claims, poor after sales service and failure to handle complaints in the course of selling airline tickets.	Fine £1000.00 Victim Surcharge	None	None	None

eCrime

2 Simple Cautions were issued under the Cosmetic Products Enforcement Regulations 2013 for making a cosmetic product available on the market without the information required.

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**Environmental Health, Trading Standards, Licensing & Housing
Formal Enforcement Action 1st April 2014 to 30 September 2014**

Anti Social Behaviour

Defendant	Legislation	Nature of Case	Penalty	Costs
	Housing Act 1985	Possession	Suspended Possession Order	Costs to be assessed, but not enforced without further court order
	Housing Act 1985	Possession	Adjourned Generally (later terminated tenancy)	No order for costs
Laura Wratten	Housing Act 1996	Injunction	Injunction Order (Final Order)	No order for costs
Rebecca Foster	Housing Act 1985	Possession	Outright Possession Order – handed keys in before eviction	£252.00
Siobhan Ball	Housing Act 1985	Possession	Outright Possession order – handed keys in before eviction	£252.00
	Housing Act 1985	Possession	Suspended Possession Order	£252.00
	Housing Act 1985	Possession	Suspended Possession Order	£252.00
Laura Wratten	Housing Act 1985	Possession	Outright Possession Order	No order for costs
Julie Benson	Housing Act 1985	Warrant Application	Application Dismissed – handed keys in before eviction	No order for costs
Viki Page	Housing Act 1985	Possession	Outright Possession Order – later evicted	£252.00

	Housing Act 1985	Possession	Adjourned Generally	No order for costs
	Housing Act 1985	Possession	Adjourned Generally	£357.00
	Housing Act 1985	Possession	Suspended Possession Order	£357.00
	Housing Act 1996	Injunction Application	Injunction Granted (Final Order)	None
Sarah Allan	Housing Act 1985	Warrant Application	Application Dismissed – Evicted	None
	Housing Act 1985	Possession	Suspended Possession Order	No order for costs
	Local Government Act	Injunction Application	Injunction Granted (Final Order)	No order for costs
	Housing Act 1985	Possession	Nosp only served	None
	Housing Act 1985	Possession	Suspended Possession Order	£357.00
	Housing Act 1985	Possession	Suspended Possession Order	No order for costs
	Housing Act 1996	Injunction Application	Undertaking given	No order for costs
Gary Mulgrew	Housing Act 1985	Possession	Outright Possession Order – Evicted	£357.00
Sandra Hardgrave	Housing Act 1985	Possession	Outright Possession Order – Keys handed in	None
	Housing Act 1996	Injunction Application	Injunction Granted (Final Order)	None

Rent (CYC) Held in Chambers (Private) so details as to names cannot be disclosed.

Legislation	Nature of Case	Penalty	Costs	Number of Cases
Housing Act 1885	Possession Application	Outright Possession Order	£319.50	7
Housing Act 1885	Possession Application	Outright Possession Order	£169.50	4
Housing Act 1885	Possession Application	Outright Possession Order	No order for costs	1
Housing Act 1885	Possession Application	Suspended Possession Order (SPO) granted	£319.50	26
Housing Act 1885	Possession Application	Suspended Possession Order (SPO) granted	£169.50	19
Housing Act 1885	Possession Application	Suspended Possession Order (SPO) granted	No order for costs	5
Housing Act 1885	Possession Application	adjourned generally with liberty to restore with automatic strike out if no application made within 12 months	£319.50	6
Housing Act 1885	Possession Application	adjourned generally with liberty to restore with automatic strike out if no application made within 12 months	£169.50	5
Housing Act 1885	Possession Application	Adjourned generally with liberty to restore with automatic strike out if no application made within 12 months	No order for costs	10
Housing Act 1885	Application to suspend warrant	Warrant suspended	£110.00	15
Housing Act 1885	Application to suspend warrant	Warrant suspended	No order for costs	9

Housing Act 1885	Application to suspend warrant	Application dismissed – evicted	£110.00	0
Housing Act 1885	Application to suspend warrant	Application dismissed – evicted	No order for costs	1

Other Possessions (CYC)

Defendant	Legislation	Nature of Case	Penalty	Costs
		Possession from temporary accommodation	Outright Possession Order granted	£244.50
	Housing Act 1985	Introductory Tenancy	Outright Possession Order Granted	£244.50
		Trespass	Evicted	£244.50
	Housing Act 1985	Introductory Tenancy	Outright Possession Order Granted	£244.50
		Possession from temporary accommodation	Outright Possession Order granted	£349.50

Anti Social Behaviour (Tees Valley Housing Association).

Defendant	Legislation	Nature of Case	Penalty	Costs
	Housing Act 1996	Injunction	Injunction Order (Final Order)	No order for costs
	Housing Act 1988	Possession	Adjourned Generally	No order for costs

SECTION 1: CIA SUMMARY
Community Impact Assessment: Summary
1. Name of service, policy, function or criteria being assessed:

Housing and Community Safety Legal Actions 1 April – 30 September 2014

2. What are the main objectives or aims of the service/policy/function/criteria?

To enable the Cabinet Member for Crime and Stronger Communities to review the results of legal actions (prosecutions, cautions and fixed penalties) undertaken by Environmental Health, Trading Standards, Licensing, the Regional Scambuster Team, and the National Trading Standards eCrime Centre as well as action taken by Housing Services for the period 1 April 2014 to 30 September 2014.

3. Name and Job Title of person completing assessment:

Matt Boxall – Trading Standards Manager

4. Have any impacts been Identified? (Yes/No)

No

Community of Identity affected:

N/a

Summary of impact:

N/a

5. Date CIA completed: 03/11/14
6. Signed off by:
7. I am satisfied that this service/policy/function has been successfully impact assessed.
Name:
Position:
Date:
8. Decision-making body:
Date:
Decision Details:

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Send the completed signed off document to ciasubmission@york.gov.uk It will be published on the intranet, as well as on the council website.

Actions arising from the Assessments will be logged on Verto and progress updates will be required

Community Impact Assessment (CIA)

Community Impact Assessment Title:

What evidence is available to suggest that the proposed service, policy, function or criteria could have a negative (N), positive (P) or no (None) effect on quality of life outcomes? (Refer to guidance for further details)

Can negative impacts be justified? **For example: improving community cohesion; complying with other legislation or enforcement duties; taking positive action to address imbalances or under-representation; needing to target a particular community or group e.g. older people.** NB. Lack of financial resources alone is NOT justification!

Community of Identity: Age

Evidence	Quality of Life Indicators	Customer Impact (N/P/None)	Staff Impact (N/P/None)
Much of the enforcement action is aimed at deterring and detecting crime targeting elderly and vulnerable people.	N/a	P	None
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer
Formal enforcement action is a deterrent against unlawful/unfair practices. Prosecution can result in compensation for	N/a	Formal enforcement action is taken in accordance with a member approved enforcement policy. The report enables	Matt Boxall
			Completion Date
			24/11/2014

victims, and the proceeds of unlawful activity recovered through the Proceeds of Crime Act 2002.		the Cabinet Member to review decisions taken.		
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Community of Identity: Carers of Older or Disabled People

Evidence		Quality of Life Indicators	Customer Impact (N/P/None)	Staff Impact (N/P/None)
N/a		N/a	None	None
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date
None		N/a	None	None

Community of Identity: Disability

Evidence		Quality of Life Indicators	Customer Impact (N/P/None)	Staff Impact (N/P/None)
N/a		N/a	None	None

Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date
None		N/a	None	None
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date

Community of Identity: Gender				
Evidence		Quality of Life Indicators	Customer Impact (N/P/None)	Staff Impact (N/P/None)
N/a		N/a	None	None
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date
None		N/a	None	None

Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date

Community of Identity: Gender Reassignment

Evidence		Quality of Life Indicators	Customer Impact (N/P/None)	Staff Impact (N/P/None)
N/a		N/a	None	None
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date
None		N/a	None	None

Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date

Community of Identity: Marriage & Civil Partnership

Evidence		Quality of Life Indicators	Customer Impact (N/P/None)	Staff Impact (N/P/None)
N/a		N/a	None	None
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date
None		N/a	None	None
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date

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Community of Identity: Pregnancy / Maternity

Evidence		Quality of Life Indicators	Customer Impact (N/P/None)	Staff Impact (N/P/None)
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date
N/a		N/a	None	None
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date
None		N/a	None	None

Community of Identity: Race

Evidence		Quality of Life Indicators	Customer Impact (N/P/None)	Staff Impact (N/P/None)
N/a		N/a	None	None
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date
None		N/a	None	None
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date

Community of Identity: Religion / Spirituality / Belief				
Evidence		Quality of Life Indicators	Customer Impact (N/P/None)	Staff Impact (N/P/None)
N/a		N/a	None	None

Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date
None		N/a	None	None
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date

Community of Identity: Sexual Orientation

Evidence	Quality of Life Indicators	Customer Impact (N/P/None)	Staff Impact (N/P/None)	
N/a	N/a	None	None	
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date
None		N/a	None	None

Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date

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**Decision Session - Cabinet Member for
Communities****22 December 2014**

Report of the Assistant Director – Housing and Community Safety

Sales of Age Restricted Products 2013-14**Summary**

1. This report informs the Cabinet Member of the work undertaken by City of York Council (CYC) Trading Standards Service to prevent the illegal sales of age-restricted products.
2. To seek the required Cabinet Member approval for the programme of action for the next 12 months regarding 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.

Background

3. Legislation exists to help to prevent a range of products which are dangerous and/or often associated with anti-social behaviour being accessible to young people. The products regulated with age-restrictions include alcohol (minimum age 18), cigarettes (18), fireworks (18), knives (18), and aerosol paint (16). Annex 1 is a list of the main age restricted products. In January 2013, The Better Regulation Delivery Office (BRDO) published a 'Code of Practice for Regulatory Delivery in Support of the Age Restricted Products and Services Framework' (the Code of Practice) which we use to guide our activities.

Existing Programme of Education and Enforcement

4. The intended outcomes of our education and enforcement work are to protect young people from harm, keep communities safe, and support law abiding businesses. Annex 2 is a summary of the education and enforcement action taken in 2013-14.
5. At the 'Decision Session – Cabinet Member for Homes & Safer Communities, 7 January 2014', 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. It was also decided that the council should follow the latest guidelines to ensure that test purchasing more closely mirrors reality. The programme of education and enforcement is as follows:
 - Visits to premises and other publicity as appropriate to advise on legal requirements and the steps that may be taken to avoid illegal sales. We also advise on other legal requirements to ensure, for example, that products are stored correctly and that notices are properly displayed.
 - Responding to complaints made by residents and intelligence from the police, other council departments and enforcement bodies about illegal sales.
 - Conducting test purchases (see below) using volunteer children, under the supervision of officers, to check compliance and take appropriate enforcement action following illegal sales. This includes test purchasing at premises where intelligence suggests that illegal sales are taking place.
 - Enforcement action will be taken following the principles of Environmental Health, Trading Standards, Licensing, Street Environment and Enforcement Services enforcement policy.
 - Targeted publicity about underage sales work.

Working with others

6. Through the following groups we ensure our work compliments the activities of our partners.
 - We are a member of the Safer York Partnership's Alcohol, Violence and Night Time Economy Group which consists of representatives from the Police, York District Hospital, the Universities and other CYC services such as the Substance Misuse team.

- We attend the Alcohol Harm Reduction Forum which is a meeting of Licensing Officers across North Yorkshire to identify emerging issues.
- We are part of the Yorkshire & Humber Region Public Health Group which co-ordinates the activities of Trading Standards Services in the Yorkshire & Humber Region.
- We are also part of the West Yorkshire and York Illicit Tobacco Alliance which is aimed at reducing the prevalence of illegal, cheap tobacco in the City.

Test Purchases

7. Test purchases are conducted in accordance with the Code of Practice. This means, amongst other things, that test purchasers do not appear older than their true age (13-16 years old) and they are always instructed to answer any questions the seller may ask about their age truthfully. They dress in a manner which is appropriate for the venue being visited.
8. The young volunteers are observed by officers (either in person or by remote camera). This helps to ensure that the child's welfare is not compromised and that a trader is not tricked into making a sale that they wouldn't have made. Businesses are always informed of the outcome of an attempted test purchase.
9. The table in Annex 3 shows the number of attempted test purchases and the number of sales for each product over the last ten years. In this time, the number of illegal sales has been generally decreasing.

The application of the Regulation of Investigatory Powers Act 2000 (RIPA)

10. Investigators must have regard to the principles of RIPA in the course of their operations. By complying with RIPA, we are more likely to be able to defend any challenge that our action has contravened a person's human right to a 'private life'. The Surveillance Commissioner has issued guidance (2011) on the applicability of RIPA to test purchases. The guidance states that a 'directed surveillance' authorisation is 'desirable' and consideration must also be given as to whether the purchaser is acting as a 'covert human intelligence source' (which requires separate authorisation). It is unlikely that in the normal course of events a young test purchaser will be deemed to be a 'covert human intelligence source'.

11. On 1 November 2012 there were significant changes introduced governing how local authorities use RIPA. Firstly, authorisations require a magistrates court order before they can take effect. Secondly, local authorities will only be granted an authorisation under RIPA in certain investigations. These are criminal offences which attract a maximum custodial sentence of six months or more or criminal offences relating to the underage sale of alcohol or tobacco. This means that RIPA authorisations cannot be given for test purchases of products such as spray paint and sun bed sessions. Any test purchasing in these areas would not therefore have the protection of RIPA in the event of a 'human rights' challenge but is not in itself unlawful.

Consultation

12. In October 2009, The Talk About panel (Survey 33) were asked to prioritise issues for environmental health and trading standards services. The issues 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). 27% of respondents said that the top priority for the trading standards service was preventing the sale of alcohol, cigarettes and fireworks to children. This is down from 60% in the last Talk About Survey (April 2004).

Options

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

Analysis

15. Option 1 will permit officers to continue with a programme of which provides support to legitimate businesses and has resulted in a general reduction in underage sales. Our figures show that when no test purchasing is undertaken half of all businesses will sell age restricted products to children. Appendix 3 shows we currently find

around 20% of businesses making illegal sales and only 'higher risk' and 'complained about' businesses are visited. This and academic studies such as the Cochrane Review (2008) shows a connection between enforcement and a reduction in retailers selling age restricted products.

16. Option 2: If an alternative programme is chosen, the council have to consider the impact it would make in reducing sales of age restricted products and the level of business support.

Council Plan

17. The trading standards work on tackling illegal sales of age restricted supports the council plan to 'protect vulnerable people' by reducing health inequalities across York. It also helps 'build stronger communities' by creating healthier communities and making communities safer, resilient and cohesive.

Implications

- **Financial** - There are no financial implications associated with this report.
- **Human Resources (HR)** - There are no HR implications associated with this report.
- **Equalities** - There are no equalities implications associated with this report.
- **Legal** - There is no legal duty to undertake test purchasing, the Council are however obliged to consider its activities in relation to tackling underage sales of cigarettes and spray paints each year. The cabinet member is being asked to make a decision on our action.

Legislation gives officers the power to undertake test purchase operations so there are no issues surrounding 'entrapment'.

There is a risk that any 'test purchasing' operations in relation to the sale of spray paint and sun bed sessions will attract a challenge under human rights legislation as such activity cannot be authorised under the protection of RIPA.

- **Crime and Disorder** - The links to tackling crime and disorder have been highlighted earlier in this report.
- **Information Technology (IT)** - There are no IT implications associated with this report.
- **Property** - There are no property implications associated with this report.
- **Other** - There are no other implications to consider.

Risk Management

18. 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.
19. The safety / welfare of the test purchasers involved is fully risk assessed and appropriate control measures are put in place.
20. There is a risk that fewer routine 'test purchases' to check general compliance will be possible as Magistrates may require intelligence about illegal sales before authorising surveillance activities under RIPA.

Recommendations

21. That the Cabinet Member notes the report and adopts the programme of education and enforcement action for the next 12 months set out in paragraph 5.

Reason: To minimise the level of illegal underage sales in the city.

Contact Details

Author:

Matt Boxall

Trading
Standards Manager
Public Protection
01904 551528

Chief Officer Responsible for the report:

Steve Waddington

Assistant Director – Housing and Community
Safety

**Report
Approved**

Date 12th December 2014

Specialist Implications Officer(s) *None*

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

All

For further information please contact the author of the report

Background Papers:

Decision Session – Cabinet Member for Crime & Stronger Communities,
7 January 2014

Environmental Health, Trading Standards, Licensing, Street Environment
and Enforcement Services enforcement policy

Cochrane Review; Interventions for preventing tobacco sales to minors
(Review).

http://summaries.cochrane.org/CD001497/TOBACCO_can-illegal-cigarette-sales-to-underage-youth-be-prevented-and-does-it-change-their-smoking-behaviour

Annexes:

Annex 1 – List of Age Restricted Products

Annex 2 - Summary of key work undertaken in 2013-14

Annex 3 - The Results of Test Purchasing Activity 2003-2014

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Annex 1 – List of age restricted products.

An age restricted product is any product that can only legally be sold to a person of a certain age. Below is a list of the main age restricted products and the legal age a person must be to purchase them:

Age Restricted Products	
Product	Age
Alcohol	18 or over
Tobacco	18 or over
Knives	18 or over
Fireworks	18 or over
DVD's	12,15 or 18
Video Games	12,15 or 18
Gas Lighter Refills	18 or over
Sun beds	18 or over
Solvents	18 or over
Lottery Tickets	16 or over
Spray Paints	16 or over
Liqueur Chocolates	16 or over

Age Restricted Products

Product

Age

Petrol

16 or over

Annex 2 - Summary of key work undertaken in 2013-14

Alcohol

There was only one illegal sale of alcohol were made from 19 visits. The seller received an £80 fixed penalty notice for disorder. We conducted 50 visits to retailers to advise on preventing illegal sales of alcohol and tobacco.

Tobacco

In 2014-15 we have joined the West Yorkshire & York Illicit Tobacco Project ('the project'), the purpose of which is to identify the prevalence of cheap and illicit tobacco in the City and take enforcement action to reduce its availability. Cheap tobacco undermines the Government's strategy to reduce smoking through price – making smoking less affordable.

According to the HMRC, unregulated distribution networks associated with smuggling make tobacco more accessible to children and young people, and perpetuate health inequalities between different social groups. And, research in the North of England showed that over half of smokers aged 14 to 17 have been offered illicit tobacco, and that buying rates amongst these age groups are higher than amongst older smokers.

A study of smokers as part of the project identified that York's smokers consume on average 12 cigarettes a day (2 lower than the average across West Yorkshire and York). And 14% of smokers buy illicit tobacco compared with 17% for the study area as a whole. This is the equivalent in a loss of £4.5m loss of duty each year.

In 2013-14, there were no illegal sales of tobacco to the underage test purchaser in our 'test purchasing' visits conducted at retail premises.

Fireworks

Businesses must register with the Council if they wish to sell and/or store fireworks. As part of this process, they are sent a guidance leaflet on all aspects of the law relating to firework sales with their registration certificate. Officers 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 are made to ensure the correct notices are displayed.

There were no illegal sales to our test purchasers.

Aerosol Paint

Officers receive very little 'intelligence' on businesses illegally selling spray paint to children either from the public or other sources. Investigations into the problem of graffiti have indicated that the majority of the paint is believed to be stolen and many of the known offenders are 16 years or more and are therefore legally able to buy it.

Annex 3 - The Results of Test Purchasing Activity 2003-2014

The Results of Test Purchasing Activity 2003-2014

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	8	0
Fireworks	17	0	35	4 (11%)
Spray Paint	0	0	0	0
Computer Games	0	0	0	0
Knives	0	0	0	0
Solvents	0	0	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	10	0
Fireworks	28	0	31	6 (19.4%)
Spray Paint	38	0	7	0
Computer Games	7	0	0	0
Knives	0	0	21	2 (9.5%)
Solvents	0	0	0	0

Product	2007/8		2008/9	
	No. of visits	Illegal Sales	No of visits	Illegal Sales
Alcohol	291	23 (8%)	71	6 (8.45%)
Tobacco	11	0 (0%)	61	11 (18%)
Fireworks	13	2 (15%)	10	0
Spray Paint	1	0 (0%)	0	0
Computer Games	0	0	0	0
Knives	0	0	25	1 (4%)

Product	2009/10		2010/11	
	No. of visits	Illegal Sales	No of visits	Illegal Sales
Alcohol	35	1 (2.9%)	26	1 (3.85%)
Tobacco	18	1 (5.6%)	41	5 (12.19%)
Fireworks	9	0	6	0
Spray Paint	0	0	0	0
Computer Games	7	0	0	0
Knives	25	2 (8%)	0	0

Product	2011/12		2012/13	
	No. of visits	Illegal Sales	No of visits	Illegal Sales
Alcohol	73	1 (1.37%)	16	4 (25%)
Tobacco	30	1 (3.3%)	4	1 (25%)
Fireworks	4	1 (25%)	4	0
Spray Paint	0	0	0	0
Knives	5	0	1	0

Product	2013/14	
	No. of visits	Illegal Sales
Alcohol	19	1 (5.26%)
Tobacco	3	0
Fireworks	0	0
Spray Paint	0	0
Knives	0	0

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