
Licensing & Regulatory Committee

22 February 2021

Report of the Assistant Director for Planning and Public Protection

Update on underage sales enforcement activity

Summary

1. The purpose of this report is to inform Members of the activity undertaken to prevent illegal sales of age restricted products.

Recommendations

2. That Members note the content of the report.

Reason: This report is for information only and is provided following the request of Members at the meeting on 17 November 2020.

Background

3. The City of York Council's Executive approved an updated 'Enforcement Policy' for Public Protection, Housing Services and Community Safety on 28 September 2017. Each year, a report is taken to the Executive Member for Economy and Strategic Planning on our activity under the policy. As part of that process, the Executive Member also considers the enforcement priorities for Public Protection in the year ahead. Included in the priorities for 2020-21 was:

- Preventing the supply of dangerous products including illegal supplies of alcohol, tobacco and potentially harmful foods.

This includes activity to prevent illegal sales of age restricted products such as alcohol, tobacco and knives (all minimum age 18). It involves advising businesses of their legal obligations and undertaking 'test purchases' with the help of young persons to ensure they are complying with their obligations. We respond to complaints and other sources of intelligence about problem premises and areas of anti-social behaviour, we also carry out some routine purchases to test wider compliance. In relation to any other age restricted products including spray paints (minimum age 16), fireworks (18) and solvents (18) we carry out activity in response to complaints and intelligence about particular problem businesses.

4. The City of York Council’s website has a page dedicated to underage sales and we advise businesses (including those we act for as Primary Authority) how to avoid making illegal sales. We also consider the provisions for ‘protecting children from harm’ on all applications for premises licences. Our advice is as follows:-
- We encourage retailers to operate at least a 'challenge 21 policy'. This means that if they think a customer buying an age restricted product looks under the age of 21 they should ask if they have proof of age. Some retailers go further and ask purchasers for proof of age if their customer appears under 25, which we also support. It is also a requirement of the Licensing Act 2003 that premises licensed to sell/supply alcohol must have an age verification policy. We recommend that retailers only accept a drivers licence or passport as proof of age, as well as identification that contains the PASS hologram.
 - We ask that customers respect retailers who ask for proof of age, as the consequences of getting this wrong could be severe.
 - Our website also lists the minimum age restriction for various products.
5. In June 2020 as we emerged from the first national lockdown imposed in response to the outbreak of the coronavirus, Trading Standards Officers provided advice to businesses as part of the City of York Council’s ‘Let’s Be York’ guidance for retailers on age restricted sales. Retailers were reminded that it was lawful to ask potential customers to temporarily remove a face coverings in order to help establish whether someone was above the legal age for purchasing age restricted products.
6. In late October 2020, we began receiving complaints about the anti-social use of fireworks, particularly in the east of the city. Trading Standards Officers were also keen to establish whether customers were routinely being asked to remove face coverings when attempting to buy age restricted products as the law allowed.
7. In accordance with the ‘Age Restricted Products and Services: A Code of Practice for Regulatory Delivery’, Trading Standards Officers enlisted the help of a 16 year volunteer to make a series of test purchases. The results and how they compare to previous years are shown in the table below:

	Target	2020-21 to date	2019-20	2018-19	2017-18	2016-17
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% underage sales of alcohol	Less than 10%	50% 10 visits 5 sales	0% 2 visits 0 sales	0% 5 visits 0 sales	0% 4 visits 0 sales	N/a 0 visits
% underage sales of tobacco	Less than 10%	N/a 0 visits	N/a 0 visits	0% 3 visits 0 sales	N/a 0 visits	N/a 0 visits
Other	Less than 10%	100% Fireworks (1 visit 1 sale)	50% E cig (4 visits 2 sales) 100% Knives (1 visit, 1 sale)	0% E cig (2 visits, 0 sales) Knife (4 visits 0 sales) Betting Machines (4 visits 0 sales)	15.4% Knives (13 Visits 2 sales)	0% E cig (5 visits 0 sales)
Total	Less than 10%	54.5% 11 visits 6 sales	42.9% 7 visits 3 sales	0% 18 visits 0 sales	11.8% 17 visits 2 sales	0% 5 visits 0 sales

Table 1. No of visits and illegal sales

8. As can be seen in the table above, there were a higher number of illegal sales this year and this is likely to be due to the purchaser wearing a face covering and staff not asking for it to be removed. As can be seen, the number of illegal sales fluctuates from year to year as different shops and different products are tested as well as different volunteers being used. We set a nominal target of 'fewer than 10% sales' as we target shops/areas where there are complaints i.e. higher risk premises. Against this background, the fact that there are refusals every year (and in most years the majority of attempts are refused) is generally seen as positive.
9. All illegal sales resulted in warning letters to the seller and the business owner. The letter re-iterated that it is lawful to ask potential customers to remove their face coverings to verify their age. The businesses that refuse sales are also written to and advised of the results. We will attempt another test purchase from those businesses that failed later in the year. In recent years, we have found all businesses have passed the test purchase on the re-visit having tightened their internal procedures.

Consultation

10. There is no consultation in connection with this report.

Options and analysis

11. There are no options and/or analysis, the report is for information.

Council Priorities

12. The action taken in relation to underage sales supports the Council's priorities in respect of the following:
- Good health and wellbeing
 - Safe communities and culture for all

Implications

13. **Financial:** There are no financial implications associated with this report.
14. **Human Resources:** There are no Human Resources implications associated with this report.
15. **Equalities:** There are no equalities implications associated with this report.
16. **Legal:** It is a legal requirement for the council to consider its approach in respect of preventing illegal sales of tobacco (Children and Young Persons (Protection from Tobacco) Act 1991, section 5) and spray paint (Anti-Social Behaviour Act 2003, s.54A) on an annual basis – hence the specific inclusion in the report to the Executive Member.
17. **Crime and Disorder:** Formal enforcement action contributes to reducing anti-social behaviour and dishonest trading.
18. **Information Technology (IT):** There are no IT implications associated with this report.
19. **Other:** There are no other implications associated with this report.

Risk Management

20. There are no risk management implications associated with this report as it is for information only.

Contact Details

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**Report
Approved**

Date 4/2/21

Specialist Officer Implications: None

Wards Affected:

All

Background Papers:

None

Annexes

None