
Meeting of the Executive Member for Neighbourhood Services and Advisory Panel

21st January 2008

Report of the Director of Neighbourhood Services

Sales of Age Restricted Products – Replica Guns

Summary

1. The purpose of this report is to inform members of the legislation regulating the sale of replica firearms, and specifically explain what controls exist to prevent these potentially dangerous items being supplied to children. The report seeks Executive Member approval of an enforcement policy for the enforcement of the legislation.

Background

2. The report is brought at the request of members following the report to the Executive Member for Neighbourhood Services and Advisory Panel on the 'Sale of Age Restricted Products' in September 2007. That report set out the council's approach to the enforcement of age restricted products such as alcohol and cigarettes. The issue of replica guns was not included in that report, due to imminent changes in the legislation.
3. The Violent Crime Reduction Act 2006, came into force on the 1st October 2007. This Act makes it an offence to sell 'realistic imitation firearms' to anybody, regardless of the buyer's age. A realistic imitation firearm 'has an appearance that is so realistic as to make it indistinguishable, for all practical purposes from a real firearm'.
4. The Violent Crime Reduction Act 2006 (Realistic Imitation Firearms Regulations) 2007 specify what sizes and colours of firearms will guarantee that an imitation firearm is regarded as 'unrealistic'. For example if its diameters are less than 38mm x 70mm, or it is transparent/ coloured brightly (the regulations provide suggested colours i.e. bright red, orange, blue, yellow, green, pink and purple) Many BB guns (also known as 'air soft' guns) which fire small plastic pellets fall within the category of being 'realistic imitation firearms'. Where this is the case i.e. they are not less than the permitted size, or are not brightly coloured, they may not now be sold lawfully.
5. The provisions in respect of illegal sales under the Violent Crime Reduction Act 2006 are 'common informer' offences and therefore enforceable by the City of York Council. There are however no specific enforcement powers for officers,

for example the power to seize items or to enter and inspect premises. As such, the only powers of seizure are those which police officers hold in relation to their general duties.

6. Imitation firearms (i.e. 'unrealistic' firearms – i.e. those which are coloured or below the size limits set out in paragraph 4) may only be sold to, and purchased by, persons over the age of 18. In these cases therefore, a child could not purchase an unrealistic imitation firearm, but a person over the age of 18 could still purchase for a child. Again there are no specific enforcement powers to an officer of the local authority under this part of the legislation. The Violent Crime Reduction Act 2006 does not contain any provision to prevent an 'underage test purchaser' from committing an offence (unlike the Licensing Act 2003 which exempts a person under the age of 18 from committing an offence if they are purchasing alcohol as an official test purchase). So it is not possible to undertake any test purchasing as part of the underage purchasing programme.
7. Toy guns are not considered to be firearms under the Violent Crime Reduction Act 2006 in cases where they would not be deemed to be 'imitation' in any way. For example, futuristic space 'guns' and super soaker type water pistols are not subject to any age restrictions.
8. Toy guns must however meet safety requirements specified in legislation enforced by trading standards officers.
9. Certain firearms e.g. air rifles may only be sold by people who are registered with the police as 'firearms dealers'. The purchaser must be at least 18 years old. There are also a number of laws controlling the possession of firearms in a public place. These controls are enforced by the police.
10. The Local Authority Co-ordinators of Regulatory Services (LACORS) are working with the Home Office and the Association of Police Officers to obtain a protocol on enforcement. It is not known when this protocol is likely to be published at the time of writing this report.

Summary

| Description | Restrictions on sale |
|-------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------|
| Air rifles | Only sold by persons who are registered with the police as firearms dealers. Purchaser must be at least 18 years old. |
| Realistic imitation firearm | Offence to sell to anybody regardless of age. |
| Unrealistic imitation firearms i.e. If less than a specified size or distinctive colour will be | Can only be sold to people over 18 years old. |

| | |
|---------------------------------------|---------------------------|
| deemed 'unrealistic'. | |
| Toy guns (not considered 'imitation') | Purchaser can be any age. |

Consultation

11. There is no consultation associated with this report.

Options

12. Option 1. To amend the Environmental Health, Trading Standards and Licensing Enforcement Policy to include that formal enforcement action be considered in cases involving sales of realistic imitation firearms.
13. Option 2. Not to amend the Environmental Health Trading Standards and Licensing Enforcement Policy.

Analysis

14. Option 1. Will permit trading standards officers to respond to complaints from members of the public and allow for proportionate and effective enforcement action to be taken by the council against sellers of realistic imitation firearms. This work could be accommodated within the existing work programme.
15. Option 2. Will mean that any enforcement action to prevent the sale of realistic imitation firearms will be solely dependant on the intervention of the police.

Corporate Priorities

16. Option 1 would contribute towards the corporate priority to reduce the actual and perceived impact of violent, aggressive and nuisance behaviour on the people in York.

Implications

Financial

17. There are no financial implications associated with this report.

Human Resources (HR)

18. There are no human resources implications associated with this report

Equalities

19. There are no legal implications associated with this report.

Legal

20. There are no legal implications associated with this report.

Crime and Disorder

21. There are no crime and disorder implications associated with this report.

Information Technology (IT)

22. There are no IT implications associated with this report

Property

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

Other

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

Risk Management

25. In compliance with the Council's risk management strategy. There are no risks associated with the recommendations of this report

Recommendations

26. That the Advisory Panel advise the Executive Member to approve Option 1.

Reason: To enable the Council's trading standards service to take enforcement action to prevent the sale of realistic imitation firearms in York.

Contact Details

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Neighbourhoods

Report Approved



Date *19/12/07*

Specialist Implications Officer(s) *None*

Wards Affected:

All

For further information please contact the author of the report

Background Papers:

- EMAP report on the Sale of Age Restricted Products – September 2007
- EMAP report on Environmental Health, Trading Standards and Licensing Enforcement Policy – September 2005

Annexes: None