
Meeting of the Executive Member for Neighbourhood Services

6th September 2007

Report of the Director of Neighbourhood Services

Sales of Age Restricted Products

Summary

1. To inform members of the work undertaken by the council's trading standards service to prevent the sales of age-restricted products.
2. To seek specific member approval for the programme of action for the period to 30th September 2008 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 (16 to change to 18 on 1 October 2007), spray paint (16), solvents (16) and knives (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 video recordings and petrol.
4. At the meeting of the Executive Member for Neighbourhood Services on 7 December 2006, 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. As part of the council's Local Public Sector Agreement (LPSA2) trading standards are tasked to reduce the level of underage sales of alcohol to below 10% by April 2008 (taken as an average over two years). The initial grant that accompanied that agreement included appointing a specific 'Underage Sales' officer who would introduce a 'Responsible Retailer Scheme' to raise standards and recognise those premises committed to tackling underage drinking. This scheme, which compliments the 'Best Bar None' scheme designed to raise overall standards in 'on-licensed' premises, was launched in October 2006. Initial response to the scheme has been good, at the time of writing there are 35 members. The criteria of the Responsible Retailer scheme are set out in Annex 2.
7. Enforcement action, through test purchasing exercises has followed the education work. In 2006/07 there were 272 visits in total, resulting in 33 sales (12.1%).

Tobacco

8. Officers have continued to undertake a programme of education and enforcement in relation to illegal tobacco sales. There were no illegal sales again in 2006/07
9. On 1 October 2007, the minimum age for purchasing cigarettes will be raised to 18. The Department of Health are planning publicity in the 'run up' to the change in the law, the trading standards service will be undertaking educational work to compliment the advice of the Department of Health including press releases, issuing guidance notes and visits to retailers where

appropriate. Officers will continue to check that the appropriate 'tobacco warning notices' are being displayed and tobacco advertising restrictions are complied with.

10. It is proposed that a programme of test purchases using 15-16 year old volunteers will follow the education programme.

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.
13. The law in relation to the illegal sale of fireworks differs from alcohol in that the person who physically sells the fireworks (the employee) does not commit an offence. Only his/her employer is potentially liable.

Spray Paint

14. There were no illegal sales of spray paint detected in 2006/07. 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 written to marker-pen suppliers asking them to consider not selling marker pens to youths if they suspect they may be used in vandalism

Knives

15. For the first time, the trading standards service carried out a project on the illegal sale of knives in 2006/07. A total of 21 visits were made, there were two illegal sales. An officer gave a training session to staff at both premises following the illegal sales and no sales occurred on the repeat visits.

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 (ie. Although enforcement is a duty, no minimum criteria is specified). 60% of respondents said that the top priority for the service was preventing the sale of alcohol, cigarettes and solvents to children.

Options

17. Option 1: The council should continue with the programme of education and enforcement action set out in paragraph 4 for the period to 30th September 2008.
18. Option 2: To adopt a different programme of education and enforcement action.

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 corporate priorities.

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

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

Implications

- **Financial:**

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

- **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 programme of enforcement activities in relation to tackling underage sales of spray paint and cigarettes each year.

- **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.

- **Other**

28. There are no other implications to consider.

Risk Management

29. There are no significant risks associated with the proposed programme of enforcement and education activity.

Recommendations

30. That the Advisory Panel advise the Executive Member to note the report and to implement Option 1 as per paragraph 19.

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

Contact Details

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Report Approved **Date** 8/7/2007

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 7th
December 2006

2005 Environmental Health, Trading Standards and Licensing Enforcement Policy

Annexes

Annex 1 – The results of test purchasing activity 2001-2007

Annex 2 – Responsible Retailer Scheme – Qualifying Criteria.