

ENVIRONMENT SCRUTINY COMMITTEE

MONDAY 5TH NOVEMBER 2012

**AT 6:00PM
IN COMMITTEE ROOM 2
THE COUNCIL HOUSE
DUDLEY**

If you (or anyone you know) is attending the meeting and requires assistance to access the venue and/or its facilities, could you please contact Democratic Services in advance and we will do our best to help you

**HELEN SHEPHERD
ASSISTANT DEMOCRATIC SERVICES OFFICER
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**You can view information about Dudley MBC on
www.dudley.gov.uk**

IMPORTANT NOTICE

MEETINGS IN DUDLEY COUNCIL HOUSE

Welcome to Dudley Council House

In the event of the alarm sounding, please leave the building by the nearest exit. There are Officers who will assist you in the event of this happening, please follow their instructions.

There is to be no smoking on the premises in line with national legislation. It is an offence to smoke in or on these premises.

Please turn off your mobile phones and mobile communication devices during the meeting.

Thank you for your co-operation.

Your ref:

Our ref:
05/11/12/HS

Please ask for:
Miss H Shepherd

Telephone No.
(01384) 815271

25th October, 2012


Dear Member

Meeting of the Environment Scrutiny Committee – Monday 5th November, 2012 – 6.00pm

You are requested to attend a meeting of the Environment Scrutiny Committee to be held on Monday 5th November, 2012 at 6.00pm in Committee Room 2 at the Council House, Dudley to consider the business set out in the Agenda below.

The agenda and reports for this meeting can be viewed on the Council's internet site www.dudley.gov.uk and follow the links to Meetings and Decisions.

Yours sincerely



Director of Corporate Resources

A G E N D A

1. APOLOGIES FOR ABSENCE

To receive apologies for absence from the meeting.

2. APPOINTMENT OF SUBSTITUTE MEMBERS

To report the appointment of any substitute members serving for this meeting of the Committee.

3. DECLARATIONS OF INTEREST

To receive Declarations of Interest in accordance with the Members' Code of Conduct.

4. MINUTES

To approve as a correct record and sign the Minutes of the meeting of the Committee held on 5th September, 2012 (copy attached).

5. PUBLIC FORUM

6. REVENUE BUDGET STRATEGY 2013/14 – To Follow

To consider a report of the Treasurer.

7. ROGUE TRADERS AND DOORSTEP CRIME (PAGES 1 - 5)

To consider a report of the Director of the Urban Environment.

8. AGE RESTRICTED PRODUCTS ENFORCEMENT (PAGES 6 - 10)

To consider a report of the Director of the Urban Environment.

9. WEST MIDLANDS BEST USE OF STOCK (WMBUS) INITIATIVE (PAGES 11 - 13)

To consider a report of the Director of Adult, Community and Housing Services.

10. TO ANSWER QUESTIONS UNDER COUNCIL PROCEDURE 11.8 (IF ANY).

AND QUESTIONS ON INFORMATION ITEMS PREVIOUSLY CIRCULATED SEPARATELY.

Members are asked to e-mail Helen Shepherd, at the address shown on the agenda cover, at least three working days before the meeting details of any questions they would wish to raise ON THE INFORMATION ITEMS.

This will enable responses to the questions to be circulated prior to the meeting.

Questions on information items raised at the meeting will receive a written response following the meeting.

To: All Members of the Environment Scrutiny Committee, namely:

M. Aston	Boleyn	Duckworth	A Finch	Hanif
Harley	James	Jordan	J Martin	Mrs Shakespeare
Mrs H Turner				

ENVIRONMENT SCRUTINY COMMITTEE

Wednesday 5th September, 2012 at 6.00 pm
in Committee Room 2, The Council House, Dudley

PRESENT:-

Councillor Hanif (Chair)

Councillor Mrs Shakespeare (Vice-Chair)

Councillors M Aston, Body, Boleyn, Duckworth, Harley, James, J Martin and Mrs Turner

Officers

Director of Corporate Resources (As Lead Officer to the Committee), Assistant Director of Planning and Environmental Health, Assistant Director of Environmental Management, Head of Environmental Health and Trading Standards (Directorate of Urban Environment), Assistant Director of Housing Services (Directorate of Adult, Community and Housing Services) and Miss H Shepherd (Directorate of Corporate Resources).

Also in attendance

Four members of the public, Councillors Perks and K Turner.

10. **APOLOGY FOR ABSENCE**

An apology for absence from the meeting was submitted on behalf of Councillor Jordan.

11. **APPOINTMENT OF SUBSTITUTE MEMBER**

It was noted that Councillor Body had been appointed as a substitute member for Councillor Jordan for this meeting of the Committee only.

12. **DECLARATIONS OF INTEREST**

No member made a Declaration of Interest in accordance with the Members Code of Conduct. However, it was noted that the Chair was a friend of Mr Kendrick, a member of the public in attendance at the meeting and who wished to speak in relation to agenda item 10 – Complaint to the Local Government Ombudsman – Enforcement Matter.

It was also noted that in relation to Agenda Item 10 – Complaint to the Local Government Ombudsman – Enforcement Matter, that the Vice-Chair had been a Cabinet Member during the decision making concerning this item.

Councillors Body and J Martin also declared that they knew and had connections with Mr Kendrick.

13. MINUTES

RESOLVED

That, the minutes of the meeting of the Committee held on 14th June, 2012, be approved as a correct record and signed.

14. PUBLIC FORUM

No other issues were raised under this agenda item other than those referred to in minute no. 16.

15. CHANGE IN ORDER OF BUSINESS

RESOLVED

That, in accordance with Council Procedure Rule 13(c), the remaining Agenda Items be considered in the following order:-

10, 6, 7, 8, 9 and 11

16. COMPLAINT TO LOCAL GOVERNMENT OMBUDSMAN – ENFORCEMENT MATTER

A joint report of the Director of Corporate Resources and Director of the Urban Environment was submitted to consider and comment on the report of the Local Government Ombudsman into a complaint made against the Council considered by the Cabinet at its meeting held on 20th June, 2012 and referred to the Scrutiny Committee to establish what lessons could be learnt from the process.

Mr Kendrick, a Member of the public, had indicated that he wished to speak on this item and the Chair explained the procedure that would be followed.

Following the presentation of the report by the Assistant Director of Planning and Environmental Health, Mr Kendrick spoke and provided the Scrutiny Committee with the background history of the case. He presented the case from the residents point of view and stated that they did have a lot of communication with Officers, but that the full details of meetings between Chief Officers and the Leader was never communicated back to the residents.

He stated that the Consultants agreed that Caparo would not be able to comply with the conditions being considered.

He informed the Committee that the regular residents meetings between Council Officers and Caparo had been helpful, but residents felt on their own with little support from the six ward Councillors for that area. Mr Kendrick felt that this was an important lesson to be learned by Councillors. He went on to say that in the report it referred to Caparo being a key employer, however the number of employees had decreased from between 40-50 staff to 35 staff, working only 3-4 day weeks due to the impact of the economic climate, and that had been the reasoning behind the closure of the business and not because they were unable to comply with regulations.

He also stated that residents had still not received the compensation payments owed to them, even though it had been agreed at Cabinet on 20th June, 2012. He then referred back to 2003 when the previous occupier, Zeus, had been on site and when the problems with the site had begun and questioned why Caparo had been allowed to take over the site considering the previous abatement notice that had been served.

Following a question raised by a Member, Mr Kendrick confirmed that the meetings between officers and Caparo had been good, but that the other meetings taking place within the Council needed to be more transparent and communicated back to the residents as they were not always aware of what was happening and therefore persisted with complaints.

In response to a question, the Assistant Director of Planning and Environmental Health stated that an abatement notice for noise nuisance had been served on Zeus, which resulted in the company having to pay a £10,000 fine. However an abatement notice does not enable the Council to stop the company from operating. It was also stated that this particular site had a long-standing planning application allowing 24-hour operation and there was no need for Caparo to obtain further planning permission when taking over the site.

Arising from a question raised, Mr Kendrick stated that the residents had suffered from noise nuisance since 2003, levels of which had never decreased and which had been confirmed in the Ombudsman's findings. It was stated that residents had been unable to sit in their gardens due to sand emissions and were subject to an odour, all of which had continued over a seven year period.

In response to questions raised in relation to the reasons for the delay in gaining Cabinet approval for the Ombudsman's recommendations and paying the compensation, the Assistant Director of Planning and Environmental Health confirmed that they had had to wait until June for the first meeting of the Cabinet following the election for the report to be agreed and there had been a delay in obtaining the addresses of some residents who had moved. However, the letters were due to go out next week, and only one or two addresses were now outstanding. A judgement had been taken to wait for all letters and payments to go out at the same time, but lessons from this would be learnt.

The Chair thanked Mr Kendrick for attending and speaking at the meeting.

Questions to officers continued and in response it was stated that the term 'reasonable time' in respect of responses from the company would be different case by case, dependant on the technical information required, especially if specialist consultants needed to be commissioned.

Arising from questions raised, the Assistant Director of Planning and Environmental Health stated that it had been a judgement call not to proceed with the abatement notice served on Caparo. Zeus had previously been prosecuted and fined for none compliance with an abatement notice, however an abatement notice did not give the Council any control to close down a business and prevent an operational process and therefore would not resolve the pollution matters. Therefore it was considered, in this case, that it would be a more appropriate route to use all available resources to pursue a permit with conditions attached, which are designed to control all pollutants with detailed conditions to enforce on an operator and stronger controls and penalties for none compliance.

RESOLVED

- (1) That the report and appendices to the report submitted to the meeting be received and noted.
- (2) That, in addition to the issues raised during the meeting, the following learning points for the Council be noted:-
 - (i) Greater Officer focus on the time taken by the Company to respond to the Council in providing technical information through proactive use of case conferences and tighter control of case management in pursuing the company for information. The issue of length of time the whole process took is the biggest factor that has to be improved on.
 - (ii) Review legal options available to the Council and consider a twin track approach where more than one legal route is available.
 - (iii) Improvement of communication, particularly around the decision-making stages of the process.
 - (iv) Improvement in the speed of compensation payments to affected residents following Ombudsman findings that are approved by Cabinet.

17. ANNUAL REPORT OF THE SCRUTINY COMMITTEE TO COUNCIL

A report of the Lead Officer to the Committee was submitted on the Annual Report of the Environment Scrutiny Committee for 2011/2012.

The Assistant Director of Housing Services requested that reports on Housing Fraud and Best Use of Stock Summit, as requested by the Scrutiny Committee at the previous meeting, be included in the Work Programme for 2012/13 and submitted to the March 2013 and November 2012 meetings, respectively.

In response to a question raised, the Assistant Director of Housing Services stated that the youngsters' 21 housing issues would all be incorporated into the annual homelessness report.

RESOLVED

- (1) That the Annual Report of the Scrutiny Committee for 2011/12 be received and noted and referred to Council
- (2) That reports on Housing Fraud and Best Use of Stock Summit be incorporated into the 2012/13 Work Programme and submitted to the March 2013 and November 2012 meetings, respectively.

18. ESTABLISHMENT OF A HOUSING WORKING GROUP

A report of the Assistant Director of Housing Services was submitted on the establishment of a cross party Housing Working Group.

Arising from the presentation of the report a Member raised concerns with regards to information being shared by all Members of the Scrutiny Committee and not just by Members of the Working Group. The Assistant Director of Housing Services stated that previous issues with Working Group's had been recognised, that lessons had been learnt and that reports submitted to the Scrutiny Committee in the future would be clearer and programmed into the Work Programme should the establishment of a Housing Working Group be agreed.

During further discussion it was agreed that it was important for the notes of the Working Group to be circulated to all Members of the Scrutiny Committee following any meeting of the Working Group.

RESOLVED

- (1) That a Housing Working Group be established to consider policy issues facing Housing.
- (2) That the Membership of the Working Group be flexible with all Members of the Environment Scrutiny Committee being invited together with an open invitation to the Cabinet Members advisers.

- (3) That the notes from the Housing Working Group meetings be circulated to all Members of the Environment Scrutiny Committee for information.
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19. WELFARE REFORMS

The Assistant Director of Housing Services gave a verbal update on the Welfare Reform proposals, which set out in law fundamental changes to the welfare system aimed at improving the benefits system so as to reduce dependency on welfare; improve incentives to work; make work pay and reduce overall spend at a time of economic instability in the Country.

Particular reference was made to a briefing note that the Assistant Director of Housing referred to and which the Chair requested be circulated to all Members of the Scrutiny Committee following the meeting.

In response to a question raised by a Member, the Assistant Director of Housing Services agreed to check the Government provisions for more certainty with regard to persons with shared parental responsibilities and the issue of additional bedrooms and benefit implications.

In relation to further questions raised the Assistant Director of Housing Services stated that in relation to 'Right to Buy' there was no requirement on the Council to replace 'like for like' and that a decision would have to be taken on what additional budget could supplement a new build programme. She also stated that with monies being paid direct into peoples account, monthly in arrears, all evidence predicted that there would be an increase in debt, not necessarily just affecting the vulnerable.

RESOLVED

- (1) That the verbal update on Welfare Reform be noted.
 - (2) That the briefing note of the Assistant Director of Housing be circulated by her to all Members of the Environment Scrutiny Committee.
 - (3) That the Assistant Director of Housing be requested to obtain further guidance in relation to persons with shared parental responsibilities requesting additional bedrooms and inform Members direct and email direct to Members the further guidance obtained.
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20. BADGERS

A joint report of the Director of the Urban Environment and the Director of Adult, Community and Housing Services was submitted on the duties and responsibility of the Council with regard to Badgers and law and on how Officers were able to provide support to communities in relation to Badgers.

Arising from the presentation of the report a Member made particular reference to Council land at Wordsley Community Centre and car park that was currently affected by Badgers and requested that this be investigated.

RESOLVED

- (1) That the information contained in the report submitted on Badgers, be noted
- (2) That the Assistant Director of Environmental Management be requested to investigate the Badger issue at Wordsley Community Centre car park and associated land raised at the meeting and respond direct to the Member concerned.

The meeting ended at 7.58pm.

CHAIRMAN

Environment Scrutiny Committee

Report of the Director of the Urban Environment

Rogue Traders and Doorstep Crime

PURPOSE OF REPORT

- 1 To inform Members of Dudley Trading Standards Service's role in combating the problems of Doorstep Crime and investigating rogue traders.

BACKGROUND

- 2 Doorstep crime occurs when householders are misled by doorstep callers, bogus workmen, high-pressure salespeople, bogus officials and distraction burglars. The most common offence involves the offender targeting an elderly victim by cold calling at the doorstep and offering repairs to garden and property. The offender will often overcharge for unsatisfactory goods or services, charge for unnecessary work, damage property to obtain money, leave work unfinished and intimidate in order to extort payment. It is now well established in Dudley from data provided by West Midlands Police and the Safe and Sound Partnership that distraction burglaries and rogue trading are interlinked.
- 3 Enforcement and prevention activity contributes to the following Community Strategy themes
 - Community Safety. Strengthen trust and confidence by working to prevent and reduce crime and antisocial behaviour and preventing vulnerable people from being victims of doorstep crime.
 - Health and Wellbeing. Tackling inequality in physical health and mental wellbeing. There is considerable evidence to prove that older people are far more likely to suffer a rapid deterioration in health after becoming a victim of doorstep crime.
- 4 Doorstep crime is targeted at the most vulnerable in society. It is known to be underreported on a scale of 9:1. (Home Office data) Elderly victims are often reluctant to report incidents of doorstep crime because of embarrassment; fear of reprisals or that relatives or friends will consider they are no longer able to look after themselves.
- 5 Criminals who carry out this activity are known to sell information about likely victims to others. The victims may then be subject to distraction burglary or repeated bogus trading attempts.

- 6 This crime affects older people and contributes to their fear of crime and therefore their quality of life.
- 7 The number of serious doorstep crime incidents reported to both the Police and Trading Standards in the West Midlands has risen by 22% over the last 12 months. (Consumer Direct database) Incidents involving older people losing thousands of pounds are now not unusual and what has become clear is that a co-ordinated approach to the problem is required.
- 8 In September 2009 a dedicated team was created in Trading Standards to investigate rogue traders and doorstep crime and to respond to the rise in reported incidents. The team works in partnership with West Midlands Police, the council's Safe and Sound Partnership and other partners who have contact with vulnerable residents. The Service also works in partnership with Telecare services who operate the bogus caller hotline. The hotline enables anyone to report a bogus caller or rogue trader on 01384 812045. Any information received is then forwarded to agencies including the Police and Trading Standards. From August 2010 to date the team has prevented in excess of £270,000 being lost by Dudley residents who have been a victim of doorstep criminals and distraction burglars. This includes numerous cases of intervention, whereby officers from the team have carried out 'rapid responses' to attend doorstep crime incidents and prevent Dudley residents having to pay rogue traders for unnecessary and shoddy work. By attending the scene before cash had been handed over in one instance residents were collectively saved £10,000. Officers were also able to assist residents in cancelling cheques and negotiating with banks to recover cash obtained as a result of fraud. Officers also represented an elderly and vulnerable resident in Stourbridge County Court who was being sued by a rogue double glazing firm for work which was unnecessary and of poor quality. The district judge struck out the company's claim and commended Trading Standards Officers for the assistance they had given to the consumer whose poor health and vulnerability prevented him from attending court in person.
- 9 In 2000 trading standards in partnership with Age UK Dudley established an approved trader scheme called Fix a Home. The scheme approved by the Office of Fair Trading now has more than 140 traders offering a wide range of property and garden maintenance services. Each trader accepted on to the scheme has to provide a series of references from satisfied customers and is subject to a rigorous selection and monitoring process. Demand for the Fix a Home list increases year on year with 10,000 copies being distributed in 2011-12 and over 90% of customers were satisfied with the service they received. The Fix a Home brochure is available at <http://www.dudley.gov.uk/advice-benefits/trading-standards/fix-a-home> or by calling 01384 814695.
- 10 Trading Standards in partnership with Adult Community and Housing Services (DACHS) have developed a groundbreaking educational package "Who's After Your Money" which has been delivered to over 200 professional carers in Dudley over the last twelve months. The training enables carers to identify whether the people they care for are victims of doorstep crime and scams, and take steps to protect them. Further information is available on the Safe & Sound website by visiting <http://www.dudleysafeandsound.org/wp-content/uploads/2012/02/Rogue-Trader-leaflet.pdf> The training has been received very positively and is now recognised as essential training for carers

of the vulnerable and elderly. Training invites are sent to all staff within DACHS and also to private and independent care providers who support people within their own homes. The training package has also been delivered to the staff of Dudley Telecare Services and to staff and managers at NHS Dudley, Alzheimer's Society, Age UK, Citizens Advice Bureau and members of Dudley Adult Safeguarding Board. The package has also been adopted by four local authorities in the Midlands. .

- 11 A further training package entitled "Doorstep Crime its Daylight Robbery" has also been developed. Aimed at Police Officers and front line civilian staff the package is intended to increase understanding of doorstep crime and financial abuse of older people and has been delivered to in excess of 200 delegates.
- 12 In August 2011, Dudley Trading Standards in partnership with Safe and Sound (Dudley's Community Safety Partnership) launched the first of the Borough's 'No Rogue Trader Zones'. 'No Rogue Trader Zones' seek to create a deterrent to rogue traders and bogus callers in areas identified as 'hotspots' for doorstep crime. Signage is erected across the zones and booklets distributed to encourage residents to report anyone suspicious to Trading Standards. Trading Standards will then carry out checks on the individual and if necessary initiate a joint 'rapid response' with West Midlands Police. In many cases the callers may well be genuine, in these circumstances reassurance can be given to the resident. Conversely if the trader is a rogue trader then all involved can be dealt with appropriately. Within the zones, joint neighbourhood inspections will be carried out by Trading Standards and Police officers on a regular basis. These inspections will be overt and highly visible to residents and traders promoting the scheme and providing reassurance to residents. An approach will be made to any persons going door to door, or working on property, to ensure they are carrying out legitimate activities. From time to time, other partner agencies such as the Health & Safety Executive, Benefit Fraud and the Hidden Economy Team may also accompany these inspections.
- 13 The 'No Rogue Trader Zones' encompass the following neighbourhoods which have been identified from Police and Trading Standards data as 'hotspots' for rogue trader activity and distraction burglaries:-
 - Halesowen North
 - Hayley Green & Cradley South
 - Halesowen South
 - Belle Vale

Advice booklets and door stickers have been delivered to 22,000 households within the zones and monthly inspections have been carried out in partnership with West Midlands Police. The impact of the zones is currently under evaluation and results will be reported to the Older Peoples Board. National research by the Trading Standards Institute in 2010 indicated that an average of 72 per cent of residents said they felt safer since their zone was introduced and an average of 78 percent of residents questioned said instances of cold calling had reduced.

- 14 During the last twelve months, Dudley Trading Standards have successfully prosecuted three rogue traders who preyed on the vulnerable and elderly of the borough. Penalties awarded included fines costs and compensation in excess of £13,000 and 100 hours unpaid work.

FINANCE

- 15 The costs associated with the activities contained within the report are covered by existing budgets.

LAW

- 16 The Councils statutory duties with respect to protecting vulnerable consumers are set out in:
- Consumer Protection from Unfair Trading Regulations 2008
 - Companies Act 2006
 - Fraud Act 2006
 - Proceeds of Crime Act 2002
 - Enterprise Act 2002
 - Cancellation of Contracts made in a Consumer's Home or Place of Work etc. Regulations 2008.

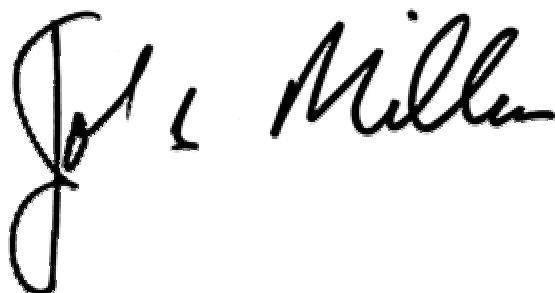
EQUALITY IMPACT

- 17 The proposals in this report do not impact on relevant groups or conflict with the Council's commitment to equality.
18. Work to combat doorstep crime and investigate rogue traders impacts the community strategy themes of health and wellbeing and community safety. In particular inequality in physical health and mental wellbeing is tackled by preventing vulnerable groups from being victims of doorstep crime through targeted enforcement and advice.

Recommendation

19 It is recommended that:-

- Members note the work carried out in this area by the Trading Standards Service.

A handwritten signature in black ink, appearing to read 'John Millar'. The signature is fluid and cursive, with the first name 'John' written in a stylized, looped manner and the last name 'Millar' in a more straightforward cursive script.

.....
John Millar
Director of the Urban Environment

Contact Officer: Mike Chambers
Telephone: 01384 814683
Email: mike.chambers@dudley.gov.uk

List of Background Papers

Council Action Plan
Community Strategy
Trading Standards Institute Report No means No February 2010

Environment Scrutiny Committee -5th November 2012

Report of the Director of the Urban Environment

Age Restricted Products Enforcement

Purpose of Report

1. To update Members on legislation enforcement and advice activity carried out by the trading standards service concerning the sale of alcohol to persons aged under eighteen.
2. To provide an annual report to Members on tobacco enforcement activity as required by specified legislation

Background

3. Enforcement and advice activity concerning age restricted products contributes to the Community Strategy themes of promoting health and well being and community safety by reducing harm to children by limiting access to alcohol and tobacco.
4. This report updates on enforcement activity through test purchasing for each product and the results obtained. It also covers legislation and preventative action through advice initiatives for sellers and members of the public.
5. **Alcohol Enforcement**
Trading Standards Service has a duty under the Licensing Act 2003 (the Act) to enforce the provisions of the Act so far as they relate to sales of alcohol made on or from premises to which the public have access and also provides Trading Standards with the power to authorise test purchases to this end.
6. The Act also states that a person commits an offence if he sells alcohol to an individual aged under 18 and also states that a person who knowingly allows the sale of alcohol to an individual aged under 18 is committing an offence. This includes persons who work at the premises.
7. Since October 2010 NHS Dudley has funded a full time Age Restricted Products Enforcement Officer post based within Trading Standards to focus on alcohol and tobacco enforcement.
8. The Trading Standards Service proactively enforces the legislation concerning each product by utilising child volunteers to carry out test purchases at local Sellers. Test purchases serve to test the reality of a sales situation when a young person presents a product for purchase at a till. All test purchase exercises are carried out in partnership with West Midlands Police and conducted in accordance with Local Government Regulation codes of practice. Enforcement action by way of Fixed Penalty Notices (FPNs) or through the courts is likely to follow any sale subject to a decision being made in line with the Council's Enforcement Policy.

- 9 The Licensing Act 2003 sets out proceedings for reviewing premises licences which represents a key protection for the community where problems associated with the licensing objectives are occurring after the grant or variation of premises licence. As a responsible authority the Trading Standards Service has the power to call for a review of an existing premises licence because of a matter arising in connection with any of the four licensing objectives namely the prevention of crime and disorder; public safety; the prevention of public nuisance; the protection of children from harm. Outcomes from the review process are summarised at paragraph 12.
- 10 Premises are targeted and risk assessed for test purchases as a result of intelligence received from West Midlands Police Her Majesty's Revenue and Customs (HMRC) as well as by information from elected members, resident's schools and concerned parents. Premises in areas with higher than average tobacco and alcohol use among under 18s are also targeted using data from NHS Dudley and the Safe & Sound Partnership
- 11 The enforcement of legislation related to the sale of alcohol to persons under 18 contributes in a positive manner to the reduction of crime and fear of crime across the Borough. In particular the Service achieves this by enforcing legislation relating to underage sales, through education and joint enforcement activities with the police and being an active partner in the Safe and Sound Partnership in particular the Crime and Reduction Implementation Group and Joint Activity Group.
- 12 Results achieved for the years highlighted below are as follows

Test Purchases 2010/2011	Sales 2010/11	% Sales 2010/11	Test Purchases 2011/2012	Sales 2011/2012	% Sales 2011/2012
74	6	8.1%	109	9	8.3%

Although the figure for percentage sales of alcohol may appear low and records a sale to a test purchase volunteer at a particular time, it is indicative of a wider pattern of offences and a general failure to comply with the licensing legislation. It should also be noted that there are 360 off licensed premises in the Borough Where illegal sales were made 11 Fixed Penalty notices were issued .A total of 13 requests were made for licence reviews of which there were 3 suspensions and one revocation. There are a number of matters pending with one premise being investigated for persistently selling alcohol under new legislation which came into force on 25th April 2012. This change in the law extends the period for Police and Trading Standards to serve a voluntary closure notice to 14 days (as an alternative to prosecution) and increases the fine for persistent sales of alcohol from £10,000 to £20,000.

- 13 While active enforcement remains a high priority for the Service, Trading Standards also places emphasis on preventative work with sellers, adults and young people.

- 14 Over 500 Citizen Card proof-of-age cards were issued to students in schools, colleges and further education establishments within the borough. The cards bear a Proof of Age Standards Scheme (PASS) Home Office approved hologram. PASS cards are the only nationally recognised proof-of-age card, alongside passports and photograph driving licences.
- 15 **Tobacco Enforcement**
Smoking is the single greatest cause of illness and premature death in England. It is also a major cause of circulatory disease, respiratory disease and cancer. Between 2003-2005 there were 1,628 smoking related deaths in Dudley. Two thirds of adult smokers state that they began smoking before the age of 18.
- 16 69 inspection visits were carried out in partnership with Her Majesty's Revenue and Customs to check for counterfeit and illicit (non duty paid) alcohol and tobacco. In the period 2011-2012 over 100 bottles of counterfeit spirits with a retail value in excess of £1,300 have been seized. Also 60,000 cigarettes with an approximate retail value of £18,000 and 115Kg of hand rolling tobacco with a retail value of approx £33,300 were seized.
- 17 Results achieved for years highlighted below are as follows

Test Purchases 2010/2011	Sales 2010/2011	% Sales 2010/2011	Test Purchases 2011/2012	Sales 2011/12	% Sales 2011/2012
21	0	0	9	1	11

Finance

18. Financial implications from enforcing the Licensing Act 2003 regarding the sale of alcohol to persons under the age of 18 years and legislation regarding the sale of tobacco products are met from within existing budgets.

Law

19. Alcohol

The Trading Standards Service has a duty under Section 154 Licensing Act 2003 (the Act) to enforce the provisions of the Act so far as they relate to sales of alcohol made on or from premises to which the public have access and also provides Trading Standards with the power to authorise test purchases to this end.

20. Section 146 of the Act states that a person commits an offence if he sells alcohol to an individual aged under 18. S.147 of the Act states that a person who knowingly allows the sale of alcohol to an individual aged under 18 is committing an offence. This includes persons who work at the premises.

21. Section 147A(1)(a) of the Licensing Act 2003 (as amended), states that a person is guilty of an offence if on 2 or more occasions within a period of 3 consecutive months alcohol is unlawfully sold on the same premises to an individual aged under 18, at the time of each sale the premises were either licensed premises or premises authorised to be used for a permitted temporary activity by virtue of Part 5 and that person was a responsible person in relation to the premises each such time.

22. Section 182 of the Licensing Act 2003 creates the power for a responsible authority or an interested party to request that the licensing authority review a license on the grounds that there is a contravention of one or more of the licensing objectives. These are the prevention of crime and disorder, public safety, the prevention of noise nuisance and the protection of children from harm

23. Tobacco

The Children and Young Persons (Protection from Tobacco) Act 1991 requires the Authority to consider its enforcement programme in respect of under-age sales of tobacco on an annual basis. This legislation is designed to protect children from the health risks associated with smoking tobacco

24. The Health Act 2009 introduced a prohibition on the sale of tobacco from vending machines and a ban on the display of tobacco products in retail outlets, with the exception of specialist tobacconists, as measures to safeguard children. The prohibition on sales of tobacco from automatic vending machines will come into force on 1st October 2011. The ban on the display of tobacco products in retail outlets will come into force for large retailers from April 2012 and for smaller retailers from April 2015. The enforcement agency for these measures will be the Trading Standards Service

Equality Impact

25. The proposals in this report do not impact on relevant groups or conflict with the Council's commitment to equality. The Trading Standards service is delivered impartially and borough wide to all service users

26. Children and young persons may be particularly vulnerable to persons willing to sell them alcohol and tobacco .Particular emphasis is placed on securing compliance with the Licensing Act 2003 and Children and Young Persons (Protection from Tobacco) Act regarding the sale of alcohol and tobacco to persons under the age of 18 years.

Recommendation

27. It is recommended that:-

The committee note the enforcement action taken by the Trading Standards Service under legislation regarding the sale of alcohol and tobacco to persons under the age of 18 years.

A handwritten signature in black ink, appearing to read 'John Millar'. The signature is stylized with a large 'J' and 'M'.

John Millar
Director of the Urban Environment

Contact Officer: Mike Chambers
Telephone: 01384 814683
Email: mike.chambers@dudley.gov.uk

List of Background Papers

Report for Environment Scrutiny Committee - 5th November 2012

Report of the Director of Adult, Community and Housing Services

West Midlands Best Use of Stock (WMBUS) Initiative

Purpose of Report

1. To advise Committee of the collaborative work that is being undertaken by the major social landlords in the region.

Background

2. Dudley was appointed an Overcrowding Pathfinder authority for central Government in 2009, and has received funding to develop measures to address both overcrowding and under-occupation. This work has included
 - developing an incentive scheme with tailored support for older residents who wish to downsize,
 - using our allocations scheme to give higher priority to people who need to move to different sized accommodation within the social housing stock, and
 - encouraging registered providers to develop more housing that complements the existing stock, for example larger family houses.

All of this work has contributed to our making best use of limited stock when demand exceeds supply.
3. The Welfare Reform Act 2011 has introduced a new bedroom size criteria for social housing, which will mean that from April 2013 working age tenants who are deemed to be occupying homes larger than they need will have their housing benefit entitlement reduced. Around 3500 of our tenants will have their eligible rent for housing benefit reduced by 14% or 25%, and if they are unable to make up the shortfall will fall into arrears and be at risk of repossession. As well as affecting single people and couples who have remained in family houses as a result of family breakdown, children leaving home, succession etc, the benefit changes will impact on people we would not regard as under-occupied, in particular single people and couples in flatted accommodation designated for their age group, and families in three bed houses who have two children under 10 of opposite sexes, or two children aged 10–15 of the same sex. We are in the process of contacting all of these tenants to discuss their options, and whilst there are few who actually want to move, there are a growing number who are saying they may have to. Welfare Reform is therefore a strong incentive for us to continue with our work on overcrowding and underoccupation, which will include a review of our allocation policies.
4. Committee will also be aware that we have recently adopted a Housing Fraud strategy and action plan, which seek to ensure that council homes are occupied by people to whom they have legitimately been let, and who are entitled to the benefits and services they are receiving. This strategy is another element in our overall commitment to making the best use of our stock.

5. Against this background of Dudley already working to make best use of stock, there has also been work with neighbouring authorities and private registered providers (PRPs). The issues we and our tenants are all facing are generally the same, and there are opportunities to share best practice and work collaboratively for the benefit of our tenants and ourselves as landlords. This partnership approach was launched at a conference on 21st June this year, and includes
- Local authorities: Dudley, Walsall, Wolverhampton, Sandwell, Birmingham, Coventry & Solihull (including ALMOs)
 - PRPs: Walsall Housing Group, Bromford, Midland Heart, Viridian, WM Housing, Sanctuary, Accord, Orbit & Jephson
- The partnership is also considered to be of national significance, and is therefore being actively supported by Communities and Local Government and the Chartered Institute of Housing, through the members of each of their staff being members of the partnership.
6. The work programme for the WMBUS partnership includes five strategic themes and two intervention pilots. The five themes with associated working groups are
- Lettings & Mobility – to jointly examine and establish best practice in respect of allocation policies, exchanges, joint tenancies, lodger schemes, tenant mobility
 - Welfare Reform – to develop practical responses to the challenges of the “bedroom tax”, universal credit, the benefit cap and other changes
 - Tenancy Fraud – confirming and extending an existing partnership to share data and adopt procedures for the prevention and detection of housing fraud
 - Private Sector – promoting access to a choice of secure, affordable and high quality private sector housing as a real alternative to social housing
 - Communications & Engagement – sharing best practice in tenant engagement in all of these issues, and developing a bank of relevant information, advice and guidance for staff and customers
- Workshops at the conference explored each of these areas, and details can be found at <http://www.sandwelltrends.info/themedpages/WMBUS/Conference2012>. The general principle is that all of these issues affect us all, and that we can achieve more by working together than separately.
7. The two intervention pilots are designed around two areas which cross local authority boundaries, contain stock belonging to several social landlords, and are known to have significant levels of both under-occupation and overcrowding. The first piece of work undertaken by the partnership was an ambitious attempt to map all of our stock across the seven local authority areas, including property types, turnover levels and occupancy. The initial mapping is virtually complete, and on paper much of our under-occupation and overcrowding could be resolved by enabling tenants to move within our stock. Dudley is involved in one of these pilots, on the north east of our borough crossing over into Wolverhampton, Walsall and Sandwell. Our first planned activity is an event for tenants in part of Coseley, Daisy Bank, Highfields, Hall Green, Bradley and Wednesbury Oak, who may wish to explore options for exchanging into a more appropriately sized home within these neighbourhoods. By focusing our intention on mutual exchanges, we hope to improve mobility and make better use of stock, without impacting on void numbers and therefore rent loss.

Finance

5. Some of the local authorities involved in the partnership are receiving CLG funding to address under-occupation, and will be expected to contribute a proportion of this funding for 2012/13 to support partnership activities. Other partners will also be asked

to make small contributions. Dudley's contribution and the purposes for which it will be used will be signed off by the Cabinet Member. One of the measures for evaluating the work of the pilot will be the savings we can make by working together rather than separately.

Law

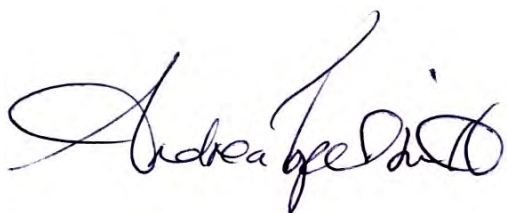
6. The powers and duties of housing authorities in relation to the allocation and management of Council housing are set out in the Housing Acts 1985 and 1996 and the Homelessness Act 2002.

Equality Impact

7. The partnership is currently undertaking an Equality Impact Assessment, and if any unintended adverse impacts on protected groups are identified, then mitigating action will be taken.

Recommendation

8. It is recommended that Members note the contents of this report.



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List of Background Papers