

DUDLEY METROPLITAN BOROUGH COUNCIL

SELECT COMMITTEE OF THE ENVIRONMENT 8TH SEPTEMBER 2010

REPORT OF THE DIRECTOR OF THE URBAN ENVIRONMENT

AGE RESTRICTED PRODUCTS ENFORCEMENT

PURPOSE OF REPORT

- 1 To update Members on enforcement and advice activity carried out by the Trading Standards service concerning age-restricted products including alcohol, tobacco, spray paints and knives.
- 2 To provide an annual report to Members on tobacco enforcement and aerosol spray paints activity as required by specified legislation.
- 3 To inform Members of forthcoming tobacco control legislation currently under consultation.

BACKGROUND

- 4 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.
- 5 The Act bans the sale of tobacco products to persons under the age of 18 and the sale of single cigarettes. There is also a legal requirement to display notices stating that the sale of cigarettes to children is illegal.
- 6 On 1st April 2009 the Criminal Justice and Immigration Act 2008 amended the Children & Young Persons Act 1933. New sanctions were given to the Council to enable it to tackle those offenders who make three or more proven illegal sales of tobacco in a two year period.
- 7 The Act states that where there is evidence of two previous sales in the preceding two years, the new sanctions will allow a Court Order to be sought, which will prevent either a specific business premise or a named person from selling tobacco for up to 12 months. If a Court Order is breached the maximum fine on summary conviction is £20,000.
- 8 The Council has delegated enforcement responsibility to the Trading Standards Service.

- 9 The Government is currently consulting on draft tobacco control regulations. The Health Bill 2009, currently before Parliament, includes proposals on two areas to safeguard children. They are a prohibition on the sale of tobacco from vending machines and a ban on the display of tobacco products in retail outlets, other than specialist tobacconists. The enforcement agency for the new legislation will be the Trading Standards Service.
- 10 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.
- 11 This report updates on enforcement activity through test purchasing for each product and the results obtained. It also covers preventative action through educational and advice initiatives for sellers and members of the public.
- 12 Context for each product:
- 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.
 - Youth access to alcohol is a concern for many communities in the borough. It is recognised that youth drinking is a contributory factor to ill health, anti-social behaviour and criminal damage.
 - The legal age for knife purchase rose to 18 on 1st October 2007 to bring knives in line with other age-restricted products. The legislative change was made due to the growing concerns about knife crime in the UK.
 - The Anti-Social Behaviour Act 2003 creates an offence for anyone to sell aerosol paints to persons under the age of 16.
- 13 Enforcement Activity:
- The Trading Standards Service proactively enforces the legislation concerning each product by utilising child volunteers to carry out test purchases at local sellers. Test purchasers 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 conducted in accordance with Local Government Regulation codes of practice. Enforcement action through the courts is likely to follow any sale subject to a decision being made in line with the Division's enforcement policy.
- 14 Results achieved for the year 2009/2010 are as follows:

Product	Test Purchase 2009-10	Sales 2009/2010	Sales 2008/2009
Alcohol	56	3	5
Tobacco	15	4	0

- 15 Premises are targeted for test purchases due to intelligence received from partner agencies such as West Midlands Police and Her Majesty's Revenue and Customs, as well as by complaints from Councillors, members of the public and concerned parents. There are no recorded complaints or intelligence regarding spray paints or knives therefore no test purchase activity has taken place.
- 16 The Trading Standards Service has the power under the Licensing Act to call for a review of an existing licence on the grounds of protecting children from harm. Two premises where alcohol was sold to persons under 18 were taken to review. The premise licences were suspended for 6 and 8 weeks respectively. (The maximum suspension period the Committee can impose is 3 months). Both shops were required to undertake formal staff training, enhance their CCTV systems and put mechanisms in place to prevent under-age sales of alcohol. This has sent out a positive message to licensees and the community that the Council will robustly enforce breaches of the Licensing Act.
- 17 Preventative Activity:
- While active enforcement remains a high priority for the Service, Trading Standards also places emphasis on preventative work with sellers, adults and young people.
 - During the year the "No Proof No Sale" business advice pack, which assists businesses in complying with the law, was distributed to all off licences within the Borough.
 - Proxy sales warning material was delivered to stores. The material warned adults that it is an offence to purchase alcohol on behalf of a young person.
 - Over 800 Validate 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.

FINANCE

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

LAW

- 19 The council's duties with respect to age restricted products are set out in:

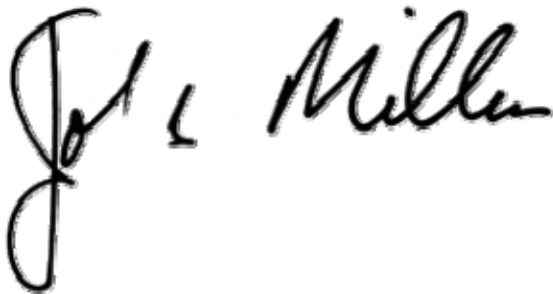
- Children and Young Persons (Protection from Tobacco) Act 1991
- Anti-social Behaviour Act 2003
- Licensing Act 2003
- Cigarette Lighter Refill (Safety) Regulations 1999
- Consumer Protection Act 1987
- Criminal Justice and Immigration Act 2008

EQUALITY IMPACT

- 20 The proposals in this report do not impact on relevant groups or conflict with the Council's commitment to equality. Account is taken of the diversity of the ethnic origins of local business proprietors and efforts made to assist those whose first language is not English, for example by providing interpreters where necessary and by providing advice literature in a range of languages.
- 21 The Trading Standards Service Plan contributes towards reducing health inequalities for all residents in the borough by promoting health and wellbeing. In particular harm to children is reduced by limiting access to alcohol and implementing the Tobacco strategy for Dudley through inspection and enforcement of underage sales legislation.

RECOMMENDATION

- 22 That Members note continuation of the current approach to enforcement and advice regarding age restricted products.



.....
Director of the Urban Environment

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

List of Background Papers

Dudley Alcohol Strategy
 The Tobacco strategy for Dudley- Creating a Smoke Free Generation
 National Alcohol Strategy-Safe Sensible Social