
ADVERTISING AND SALE OF TOBACCO TO CHILDREN UNDER THE AGE OF 16

Responsible Cabinet Member - Councillor Nick Wallis, Health and Leisure Portfolio

Responsible Director - Paul Wildsmith, Director of Corporate Services

Purpose of Report

1. To report on the programme of enforcement carried out under the Children and Young Persons (Protection from Tobacco) Act 1991 from April 2006 to March 2007.
2. To seek Members' approval for a continuing programme of enforcement to be taken by the Trading Standards Section in relation to the advertising and sale of tobacco.

Information and Analysis

3. Under the provision of The Children and Young Persons (Protection from Tobacco) Act 1991 every Local Authority has a duty to consider the extent to which it is appropriate for them to carry out a programme of enforcement. The report details the enforcement programme carried out and the proposals to continue this enforcement programme.
4. The following programme of enforcement under The Children and Young Persons (Protection from Tobacco) Act 1991 has previously been approved:
 - (a) A programme of inspections to premises selling tobacco.
 - (b) A programme of inspections to premises where cigarette vending machines are sited.
 - (c) The investigation of complaints in respect of alleged offences (including test purchasing).
 - (d) A programme of checks on retailers using test purchasing.
 - (e) Raising the awareness of traders and children through the use of publicity.

Table 1

	Inspections	Number of Infringements Found	Number of Complaints Received and Investigated
2002/03	79	4	0
2003/04	124	12	2
2004/05	17	5	2
2005/06	99	13	0
2006/07	101	9	0

5. Table 1 contains details of the programme of enforcement carried out from April 2006 to March 2007, along with details from previous years.

6. Inspections check compliance with the following legislation:
 - (a) The Children and Young Persons (Protection from Tobacco) Act 1991.
 - (b) Protection from Tobacco (Display of Warning Statements) Regulations 1992.
 - (c) Tobacco Advertising and Promotion Act 2002.
 - (d) The Tobacco Advertising and Promotion (Specialist Tobacconists) Regulations 2004.
 - (e) The Tobacco Advertising and Promotion (Point of Sale) Regulations 2004.
7. All of the infringements found during inspections relate to the non-display of the required warning notice "It is illegal to sell tobacco products to anyone under the age of 16". The display of these notices was remedied during the inspections.
8. The Children and Young Persons (Sale of Tobacco etc) Order 2007 made under the Health Act 2006 will come into force on 1 October 2007. This Order will raise the age limit for selling tobacco products to children from 16 to 18. This will bring the age limit into line with that for the sale of alcohol.
9. A consumer and retailer education programme on the change of age limit will be undertaken in the lead up to 1 October. After 1 October, if approved, a programme of intelligence led test purchasing will be undertaken to ensure compliance with the new age limit.
10. It is the duty of the Local Authority to enforce the provisions of the relevant Acts and Regulations. This duty will be covered by the proposed programme of enforcement for 2007/08.

Outcome of Consultation

11. Consultation as carried out with the Darlington Smoke Free Partnership on the proposed programme of enforcement. The Partnership supported the proposed programme of enforcement, which would be part of the Smoke Free Darlington Action Plan.

Legal Implications

12. This report has been considered by the Borough Solicitor for legal implications in accordance with the Council's approved procedures. There are no issues which the Borough Solicitor considers need to be brought to the specific attention of Members, other than those highlighted in the report.

Section 17 of the Crime and Disorder Act 1998

13. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. The content of this report will have an effect on preventing and detecting offences under the relevant legislation.

Council Policy Framework

14. The issues contained within this report do not represent change to Council policy or the Council's policy framework.

Decision Deadline

15. Approval of a programme of enforcement under The Children and Young Persons (Protection from Tobacco) Act 1991 needs to be considered for 2007/08. It is not considered to be an urgent item.

Recommendation

16. It is recommended that :-

- (a) Members note the results of the programme of enforcement carried out from April 2006 to March 2007.
- (b) Member re-approve the following programme of enforcement considered under the Children and Young Persons (Protection from Tobacco) Act 1991:
 - (i) A programme of inspections to premises selling tobacco.
 - (ii) A programme of inspections to premises where cigarette vending machines are sited.
 - (iii) The investigation of complaints in respect of alleged offences (including test purchasing).
 - (iv) A programme of checks on retailers using test purchasing.
 - (v) Raising awareness of traders and children through the use of publicity.

Reasons

17. The recommendations are supported by the following reasons :-

- (a) The Act places a duty on the Local Authority to consider the extent to which it is appropriate for them to carry out a programme of enforcement.
- (b) Approval of the programme of enforcement would give an effective means of enforcing the provisions of the Act.

Paul Wildsmith
Director of Corporate Services

Background Papers

1. The Children and Young Persons (Protection from Tobacco) Act 1991.
2. Protection from Tobacco (Display of Warning Statements) Regulations 1992.
3. Tobacco Advertising and Promotion Act 2002.
4. The Tobacco Advertising and Promotion (Specialist Tobacconists) Regulations 2004.
5. The Tobacco Advertising and Promotion (Point of Sale) Regulations 2004.

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