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

**Responsible Cabinet Member(s) -Councillor Chris McEwan,
Community Protection Portfolio**

Responsible Director(s) - John Buxton, Director of Development and Environment

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 2003 to March 2004.
2. To seek Members' approval for a continuing programme of enforcement to be taken by the Trading Standards Section in relation to the sale of tobacco to children under the age of 16 and under the Tobacco Advertising and Promotion Act 2002.

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 every 12 months 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. Council Minute C48, Cabinet July 2003, approved the following programme of enforcement under The Children and Young Persons (Protection From Tobacco) Act 1991:
 - (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.
5. Table 1 contains details of the programme of enforcement carried out from April 2003 to March 2004 along with details from previous years.

Year	Number of Inspections	Number of Infringements Found – Display of Warning Notices	Number of Complaints Received and Investigated
1998/1999	43	11	3
1999/2000	51	6	1
2000/2001	75	4	0
2001/2002	167	25	3
2002/2003	79	4	0
2003/2004	124	12	2

6. The number of inspections increased from the previous year (due to variations in the inspection programme) and consequently there was an increase in the number of infringements found concerning the display of the required ‘Warning Notice’.
7. Two complaints were received and investigated during the year which is an increase on the previous year. The number of complaints received has consistently been low.
8. To enable effective enforcement of the Act, it is important that the provision of test purchasing in the programme is maintained.
9. Parts of the Tobacco Advertising and Provision Act 2002 concerning advertising and promotion of tobacco products came into force during 2003. Further legislation made under The Tobacco Advertising and Promotion (Specialist Tobacconists) Regulations 2004 and The Tobacco Advertising and Promotion (Point of Sale) Regulations 2004 will come into force on 21 December 2004.
10. It is the duty of the Local Authority to enforce the provisions of the Act and regulations. This duty, to enforce the Act and regulations, will be covered by the proposed programme of enforcement for 2004/05.

Outcome of Consultation

11. Darlington Primary Care Trust was consulted on the proposed programme of enforcement and their comments are given below:
 - (a) We support the inclusion of a ‘pro-active test purchasing programme’ and feel this should feature strongly in the action plans over the coming years, linked to numbers of prosecutions as an indicator of ‘success’. The majority of people who smoke start young and therefore we need to target this end of the market.
 - (b) We support the development of a strong PR campaign linked to the above to act as a deterrent as well as keeping people aware of the consequences of selling cigarettes to children.
 - (c) We would be happy to support you through training/awareness of up to date information on smoking.

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. It is not considered that the contents of this report have any such effect.

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 and the Tobacco Advertising and Promotion Act 2002 needs to be given for the period April 2004/05.

Key Decisions

16. This is a key decision as the programme of enforcement will affect the whole community.

Recommendation

17. It is recommended that :-
 - (a) Members note the results of the programme of enforcement carried out from April 2003 to March 2004.
 - (b) Members re-approve the following programme of enforcement considered under The Children and Young Persons (Protection From Tobacco) Act 1991 and the Tobacco Advertising and Promotion Act 2002 for the period April 2004 to March 2005.
 - (i) A programme of inspections to premise selling tobacco.
 - (ii) A programme 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

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

- (a) The Act places a duty on the Local Authority to consider every 12 months the extent to which it is appropriate for them to carry out a programme of enforcement.
- (b) Approval of the approved programme of enforcement would give an effective means of enforcing the provisions of the Acts.

John Buxton
Director of Development and Environment

Background Papers

- (i) Sale of Tobacco to Children Under the Age of 16 – Cabinet July 2003
- (ii) Tobacco Advertising and Promotion Act 2002
- (iii) The Tobacco Advertising and Promotion (Specialist Tobacconists) Regulations 2004
- (iv) The Tobacco Advertising and Promotion (Point of Sale) Regulations 2004

Nigel Green : Extension 2989
BAH