



**CABINET – 23 JUNE 2017**

**ENFORCEMENT PROGRAMME FOR UNDERAGE SALES OF  
TOBACCO PRODUCTS AND AEROSOL PAINT PRODUCTS 2017/2018**

**REPORT OF THE CHIEF EXECUTIVE**

**PART A**

**Purpose of the Report**

1. The purpose of this report is to seek the Cabinet's approval of the proposed Enforcement Programmes for Underage Sales of Tobacco Products (Appendix A) and Aerosol Paint Products (Appendix B) for 2017/2018.

**Recommendation**

2. It is recommended that the 2017/2018 Enforcement Programmes for Underage Sales of Tobacco Products set out in Appendix A, and Aerosol Paint Products set out in Appendix B, be approved.

**Reason for Recommendation**

3. To enable the County Council to meet its statutory obligation under Section 5(1) of the Children and Young Persons (Protection from Tobacco) Act 1991 (as amended) and Section 54A of the Anti-Social Behaviour Act 2003.

**Timetable for Decisions (including Scrutiny)**

4. Annual Cabinet approval of these two programmes is required under the legislation referred to in paragraph 3 above.

**Policy Framework and Previous Decisions**

5. The enforcement programmes proposed in this report represent a continuation of previous policies and plans.

**Resource Implications**

6. The 2017/2018 Trading Standards Service budget includes provision to undertake a range of enforcement activities as a means to reduce the risk of age-restricted products being supplied to children in Leicestershire. Age restricted products include tobacco and aerosol spray paint products.

**Circulation under the Local Issues Alert Procedure**

7. None.

**Officers to Contact**

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## **PART B**

### **Background**

#### **Tobacco**

8. The County Council is required to approve an enforcement programme under The Children and Young Persons (Protection from Tobacco) Act 1991. This legislation is designed to protect children from the health risks associated with smoking tobacco.
9. Legislation bans the sale of tobacco products to persons under the age of 18 years and prohibits the sale of single cigarettes. There is also a legal requirement to display notices on trading premises stating that the sale of tobacco products to children is illegal.
10. Regulations made under the Tobacco Advertising and Promotion Act 2002 prohibits the display of tobacco products at the point of sale and controls the manner in which pricing information is communicated to the consumer.
11. The Standardised Packaging of Tobacco Products Regulations 2015 and the Tobacco and Related Products Regulations 2016 require all tobacco products to be sold in plain packaging with prescribed health warnings.
12. The County Council has delegated the enforcement responsibilities described in paragraphs 10 and 11 above to the Trading Standards Service.
13. The agreed County Council Medium Term Financial Strategy 2016/17 included a reduction in Public Health funding, which in turn led to the Department reducing its contribution towards the Trading Standard's budget. The Service met this shortfall by halving the number of planned inspection visits, in particular, those businesses that from an 'intelligence led' perspective were less likely to breach the law. The number of prevention inspections programmed for 2017/2018 will continue at these reduced levels. However, the Trading Standards Service will continue to prioritise its investigative resources on those traders that persistently fail to put in place appropriate due diligence measures to prevent such products being sold to children.

#### **Aerosol Spray Paint Products**

14. The Anti-Social Behaviour Act 2003 makes it an offence for anyone to sell aerosol paint products to persons under the age of 16 years. The legislation is designed to help tackle the problem of unsightly and illegal graffiti that, if left unmanaged, can lead to other types of anti-social behaviour. It is believed that the majority of graffiti is committed by persons under the age of 16 years.

15. Although aerosol paints were widely used to create such graffiti when the legislation was first introduced, the evidence now suggests a marked decline and a shift towards the use of marker pen and shoe scuff cover. These products are cheaper to purchase and easier to conceal than aerosol paints.

#### **Tobacco Enforcement Programme 2016/2017**

16. Enforcement activities during 2016/2017 were 'intelligence led' and have included :-
  - i. Advisory visits to 36 retailers, whereby businesses are supplied with compliance materials as a means to help them avoid making unintentional sales of tobacco products to persons under eighteen years of age.
  - ii. Inspection visits to 57 retailers to ensure compliance with the statutory requirements to display age restriction cigarette notices. The results of these inspections indicate a 93% compliance rate.
  - iii. The investigation of 26 incidents alleging sales of tobacco to children.
  - iv. Inspection visits to 36 retailers to ensure the tobacco products being sold were not on display. The results of these inspections indicate a 94% compliance rate.
  - v. Test purchases using volunteer children were attempted on 18 occasions, which resulted in 3 illegal sales. These matters were disposed of by issuing 5 warning letters, 1 simple caution with 2 of the offenders completing formal age restricted sales training.
17. Although electronic cigarettes do not form part of the Tobacco Enforcement Programme, the Trading Standards Service does have a statutory duty to enforce provisions relating to the sale of these and other nicotine liquid products. As part of a Trading Standards East Midlands enforcement project, a test purchase operation was undertaken. In Leicestershire there were 8 attempts to purchase electronic cigarettes, 1 of which resulted in a sale to the child volunteer. The owners of the shop were issued with written warnings.

#### **Underage Sales of Aerosol Paint Products—Enforcement Programme 2016/17**

18. The Service has written to all district councils within Leicestershire asking them to identify any areas of concern relating to graffiti. No specific areas were identified for further enforcement

**Enforcement Programmes for 2017/2018**

19. The proposed enforcement programmes for tobacco products and aerosol paint products are shown in Appendices A and B attached to this report.

**Background Papers**

Cabinet 9 May 2016 - Report of the Chief Executive - Enforcement Programmes for Underage Sales of Tobacco Products and Aerosol Paint Products 2017/18

<http://politics.leics.gov.uk/ieListDocuments.aspx?CId=135&MId=4602&Ver=4>

**Appendices**

- Appendix A - Enforcement Programme for Tobacco Products  
2017/2018.
- Appendix B - Enforcement Programme for Aerosol Paint products  
2017/2018.

**Equality and Human Rights Implications**

20. There are no specific equality and human rights implications arising from this report.

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