

SCRUTINY COMMISSION – 21 APRIL 2010

**ENFORCEMENT PROGRAMMES FOR UNDERAGE SALES OF TOBACCO
PRODUCTS AND AEROSOL PAINTS 2010/11**

REPORT OF THE CHIEF EXECUTIVE

Purpose of Report

1. To receive the comments of the Scrutiny Commission on the proposed 2010/11 Enforcement Programmes for Underage Sales of Tobacco Products and Aerosol Paints.

Policy Framework and Previous Decisions

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

Background

Tobacco

3. 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.
4. The Act bans the sale of tobacco products to persons under the age of 18 years 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.
5. The Health Act 2009 contains measures to end the display of tobacco products for sale by retail at large shops in 2011 and at small shops in 2013. There is also an intention to ban the sale of tobacco from vending machines during 2011. Enforcement of these new provisions will be the responsibility of the County Council's Trading Standards Service

Aerosol Paints

6. The Anti-social Behaviour Act 2003 makes it an offence for anyone to sell aerosol paints 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 leave the impression that nobody cares about an area, which in turn 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.

7. 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 to the use of marker pen and shoe scuff cover. These products are cheaper to purchase, easier to use and conceal than are aerosol paints.

Underage Sales of Tobacco – Enforcement Programme 2009/10

8. Enforcement activities in respect of tobacco products during 2009/10 have included:-
 - (i) Routine inspection of business premises to ensure compliance with statutory requirements to display age-restriction notices and the labelling and prescribed quantity of packets of cigarettes. Approximately 200 premises have been inspected. At 10% of these premises problems were found with the requirement to display statutory notices. This was dealt by providing advice and issuing warnings to the businesses concerned.
 - (ii) Undertaking 79 test purchases using volunteer children. 9 illegal sales (11.4%) were made. 1 sale resulted in prosecution (fine £400, costs £364), 4 were dealt with by way of statutory “Simple Caution” and the remaining 4 were resolved through warning and advisory letters. Some of this work resulted from additional resources provided by the Department of Health and through collaboration with other Trading Standards Services in the East Midlands
 - (iii) Investigation of 17 complaints alleging underage sales.
 - (iv) Investigation of information alleging supplies of counterfeit and/or smuggled tobacco and cigarettes, again supported by Department of Health funding.

Local Area Agreement (LAA2) and Control of Underage Tobacco Sales

9. Other tobacco control work which was additional to that set out in the 2009/10 enforcement programme and funded by the LAA2, involved Trading Standards supporting the work of the Leicestershire and Rutland Primary Care Trust to reduce the incidence of smoking amongst school children. This involved work with retailers in targeted areas including test purchasing to restrict the supply of tobacco products and followed the very encouraging results from similar LAA1 arrangements.

Underage Sales of Aerosol Paints – Enforcement Programme 2009/10

10. Enforcement activities have included:-
- (i) Contact made with each of the District and Parish Councils to raise awareness and gather intelligence. From over 300 enquiry letters sent out, 29 responses were received, only half of which identified potential problems.
 - (ii) From these responses two areas were identified as having sufficient concerns to justify detailed investigation. Two retailers of aerosol paints were identified and supported with detailed advice and guidance.
 - (iii) Visits to a number of locations to examine reported incidents of graffiti; checks revealed that the damage had been done through the use of marker pen rather than spray paint.

Enforcement Programmes

11. The proposed enforcement programmes for tobacco products and aerosol paints are shown at Appendix A & B.

Resource Implications

12. The 2010/11 Chief Executive's Department budget includes provision to allow for enforcement work related to sales of age-restricted products, including tobacco and aerosol paints.

Timetable for Decisions

13. Cabinet - 15 June 2010

Background Papers

Report of the Director of Community Services - Enforcement Programmes for Underage Sales of Tobacco Products and Aerosol Paints 2009/2010 - Cabinet 12th May 2009.

Circulation under the Local Issues Alert Procedure

None.

Officers to Contact

David Bull, Head of Regulatory Services
Tel: 0116 305 7572
e-mail: david.bull@leics.gov.uk

Keith Regan, Head of Consumer Services Unit
Tel: 0116 305 6533
e-mail: keith.regan@leics.gov.uk

List of Appendices

Appendix A, Enforcement Programme for Tobacco Products 2010/11
Appendix B, Enforcement Programme for Aerosol Paints 2010/11

Equal Opportunities Implications

14. There are no specific equal opportunities implications arising from this report.

Environmental Impact

15. None.