

INFRASTRUCTURE SERVICES COMMITTEE – 6 OCTOBER 2016

THE TOBACCO AND PRIMARY MEDICAL SERVICES (SCOTLAND) ACT 2010 – ENFORCEMENT ACTION PROGRAMME

1 Recommendations

The Committee is recommended to agree that the Trading Standards Service will undertake:-

- 1.1 A programme of enforcement by way of advice and information to tobacco retailers, including maintaining the tobacco register and prevention of under age sales, the distribution of an Age Restricted Products information booklet, a programme of inspection and surveillance when necessary, of premises from which tobacco is sold (including through social media sites) and a thorough investigation of complaints received;**
- 1.2 Further test-purchasing exercises throughout Aberdeenshire, employing volunteers who have attained sixteen years of age; and**
- 1.3 Raising awareness of the legislation as it applies to purchases of tobacco products by under 18 year olds, and purchases on behalf of persons under 18 years old, in suitable locations at and around schools, further education colleges and across Aberdeenshire.**

2 Discussion

- 2.1 Section 26(1) of the Tobacco and Primary Medical Services (Scotland) Act 2010 places upon local authorities the duty to carry out a programme of enforcement action at least once every 12 months. This programme involves the investigation of complaints in respect of alleged offences of this legislation and taking other measures to reduce the incidence of such breaches.**
- 2.2 This legislation prohibits sales of cigarettes to under 18 year olds and purchasing of cigarettes by or on behalf of under 18 year olds. It also introduced a requirement for tobacco retailers to be registered in order to legally sell tobacco. Further provisions were introduced banning tobacco displays and prohibiting sales of cigarettes from vending machines. The display ban was initially introduced for larger shops and was extended to all premises selling tobacco products in April 2015.**
- 2.3 Legislation was also introduced this year regulating the packaging and composition of tobacco products- the so called “plain packaging” regulations. An illustration of an example compliant pack is appended for your information at **Appendix 1**. The requirements apply from 21 May 2017 for products already in the supply chain.**
- 2.4 Trading Standards Services in Scotland entered into an agreement with the Scottish Government to increase enforcement activity in relation to tobacco control measures with a view to reducing the availability of cigarettes to young**

people, the long term aim being to prevent young people from taking up smoking.

- 2.5 Test purchasing activity is carried out in line with guidance developed by the Society of Chief Officers of Trading Standards in Scotland (SCOTSS), to help ensure consistency across Scotland. This document has recently been updated and now allows for the use of test purchase volunteers outwith the age bracket 16-16.5 years old.
- 2.6 The guidance also allows for the test purchase volunteer to adopt a given persona in exceptional circumstances. They may be given an assumed name, address and date of birth but this will only be used where the authority has suspicion that the retailer is test purchase aware and this is the only realistic means of detection. It is anticipated that instances where this is required will be extremely rare and in any case will be subject to specific authorisation by the Head of Service.
- 2.7 In the twelve month period to March 2016, officers in Aberdeenshire conducted 12 test-purchase visits using 16 year old volunteers. A total of 4 sales were made which equates to 33%. These sales resulted in warning letters being issued to the retailers and their staff and follow up visits will be made in future. The corresponding figures for the previous year were 64 test purchases and 5 sales (7.8%).
- 2.8 In the same period Trading Standards staff conducted 71 visits to tobacco retailers to inspect their premises and to provide help and advice on complying with the legislation. 10 traders (14%) were found not to be displaying statutory notices regarding underage sales of tobacco and were given appropriate advice.
- 2.9 These figures show a disappointing increase and more visits will be carried out in the current year to emphasise the importance of taking adequate steps to prevent sales taking place.
- 2.10 Awareness raising events conducted, included attending a further education college and handing out information on the legislation as it applies to young people and handing out posters to retailers on the illegality of purchasing cigarettes on behalf of someone under 18 years old ('proxy purchasing').
- 2.11 The service has maintained its previous commitment to raise public awareness of the dangers and illegality behind the supply of illicit tobacco and encourage the public to report activities involving illegal tobacco. This resulted in 19 intelligence reports being received during the year, all providing information about alleged sales of illicit cigarettes. Several of these were in relation to the same premises and further action is being pursued against the business. In addition, monitoring of social media sites identified 15 potentially illegal sellers of tobacco in and around Aberdeenshire, and appropriate action is being pursued in relation to these.
- 2.12 The Council is required to make an annual return to the Scottish Government on its enforcement activities and the level of complaints and problems regarding underage sales of tobacco. The statistics mentioned in paragraphs 2.7 and 2.8 were reported as part of this return.

- 2.13 The Committee is asked to agree the recommendations to continue with a programme of advice to retailers, including inspections of premises where tobacco is sold and surveillance of premises where complaints or other intelligence indicates that tobacco products may be being illegally sold; continue with test purchasing exercises to establish compliance; and carry out some work to raise awareness of the legislation in relation to purchases by under 18 year olds and purchases on behalf of persons under 18 years old.
- 2.14 The Head of Finance and the Monitoring Officer within Business Services have been consulted during preparation of this report and their comments incorporated accordingly.

3 Equalities, Staffing and Financial Implications

- 3.1 An equality impact assessment has been carried out as part of the development of the proposals set out above. No negative impact has been identified. This is appended as **Appendix 2**.
- 3.2 There are no financial or staffing issues arising from the report.

Stephen Archer
Director of Infrastructure Services

Report prepared by Wilma Urquhart, Trading Standards Manager.
24 August 2016

APPENDIX 1

Department of Health

Tobacco and herbal packaging rules from 20 May 2016

Cigarette packaging mock-up

The image below is a mock-up of a standard packet of cigarettes that is fully compliant with both the Standardised Packaging of Tobacco Products Regulations 2015 and the Tobacco and Related Products Regulations 2016 (including colours and font). In addition any wrapper must be transparent and any foil lining must be silver with a white backing.

The only colour or shade permitted on the external pack is Pantone 448 C with a matt finish

It must have a combined health warning – photo, text and smoking cessation information: “Get help to stop smoking at www.nhs.uk/quit” - together covering 65% of the front and back

The pack must be cuboid with smooth surfaces and no texture or embossing

These are optional once on the pack:

- bar code
- calibration mark
- alphanumeric code (e.g. Codentity)
- producer details

It must have the health warning: “Smoking kills – quit now” covering 50% of one side

The pack must have the UK duty paid mark

Unit packets of cigarettes must have a minimum of 20 cigarette sticks. The number of cigarette sticks may be printed in figures once on the pack (and may be followed by the word “Cigarettes”)

The text for any brand and variant name may only appear, once each, on the front, top and bottom. It may only appear in grey Helvetica type. Any variant name (max 10 font) must be below any brand name (max 14 font), both centred.

It must have the information message “Tobacco smoke contains over 70 substances known to cause cancer” covering 50% of one side

Things that packs of cigarettes must NOT have:

- any other colours, markings or text (including information as to weight)
- promotional images or logos
- non-white cigarettes (except a possible cork tip and brand/variant name)
- slim packets (but slim cigarettes sticks are allowed)

EQUALITY IMPACT ASSESSMENT

Stage 1: Title and aims of the activity (“activity” is an umbrella term covering policies, procedures, guidance and decisions).	
Service	Infrastructure
Section	Trading Standards
Title of the activity etc.	Tobacco and Primary Medical Services (Scotland) Act 2010- Enforcement action programme
Aims of the activity	To reduce availability of tobacco to under 18 year olds
Author(s) & Title(s)	Wilma Urquhart, Trading Standards Manager
Stage 2: List the evidence that has been used in this assessment.	
Internal data (customer satisfaction surveys; equality monitoring data; customer complaints).	Data on number of visits, test purchase exercises and likelihood of sales.
Internal consultation with staff and other services affected.	
External consultation (partner organisations, community groups, and councils).	
External data (census, available statistics).	Data on number of visits, test purchase exercises and likelihood of sales across Scotland.
Other (general information as appropriate).	

Stage 3: Evidence Gaps.	
Are there any gaps in the information you currently hold?	

Stage 4: Measures to fill the evidence gaps.		
What measures will be taken to fill the information gaps before the activity is implemented? These should be included in the action plan at the back of this form.	Measures:	Timescale:

Stage 5: Are there potential impacts on protected groups? Please complete for each protected group by inserting "yes" in the applicable box/boxes below.				
	Positive	Negative	Neutral	Unknown
Age – Younger	Yes			
Age – Older			Yes	
Disability			Yes	
Race – (includes Gypsy Travellers)			Yes	
Religion or Belief			Yes	
Gender – male/female			Yes	
Pregnancy and maternity			Yes	
Sexual orientation – (includes Lesbian/ Gay/Bisexual)			Yes	
Gender reassignment – (includes Transgender)			Yes	
Marriage and Civil Partnership			Yes	

Stage 6: What are the positive and negative impacts?		
Impacts.	Positive (describe the impact for each of the protected characteristics affected)	Negative (describe the impact for each of the protected characteristics affected)
Please detail the potential positive and/or negative impacts on those with protected characteristics you have highlighted above. Detail the impacts and describe those affected.	By reducing the likelihood of a young person being able to purchase cigarettes you reduce the availability with a view to positively impacting their health.	

Stage 7: Have any of the affected groups been consulted?	
If yes, please give details of how this was done and what the results were. If no, how have you ensured that you can make an informed decision about mitigating steps?	No

Stage 8: What mitigating steps will be taken to remove or reduce negative impacts?		
These should be included in any action plan at the back of this form.	Mitigating Steps	Timescale

Stage 9: What steps can be taken to promote good relations between various groups?

<p>These should be included in the action plan.</p>	
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<p>Stage 10: How does the policy/activity create opportunities for advancing equality of opportunity?</p>

<p>Stage 11: What equality monitoring arrangements will be put in place?</p>	
<p>These should be included in any action plan (for example customer satisfaction questionnaires).</p>	

<p>Stage 12: What is the outcome of the Assessment?</p>		
<p>Please complete the appropriate box/boxes</p>	<p>1</p>	<p>No negative impacts have been identified –please explain.</p>
	<p>This legislation is designed to protect and improve the health of young people. If successful it will have a positive effect.</p>	
	<p>2</p>	<p>Negative Impacts have been identified, these can be mitigated - please explain. * Please fill in Stage 13 if this option is chosen.</p>
	<p>3</p>	<p>The activity will have negative impacts which cannot be mitigated fully – please explain. * Please fill in Stage 13 if this option is chosen</p>

* Stage 13: Set out the justification that the activity can and should go ahead despite the negative impact.

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Stage 14: Sign off and authorisation.			
Sign off and authorisation.	1) Service and Team	Infrastructure- Trading Standards	
	2) Title of Policy/Activity	Tobacco and Primary Medical Services (Scotland) Act 2010- Enforcement action programme (if appropriate)	
	3) Authors: I/We have completed the equality impact assessment for this policy/ activity.	Name: Wilma Urquhart Position: Trading Standards Manager Date: 26/8/16 Signature:	Name: Position: Date: Signature:
		Name: Position: Date: Signature:	Name: Position: Date: Signature:
	4) Consultation with Service Manager	Name: Date:	
	5) Authorisation by Director or Head of Service	Name: Belinda Miller Position: Head of Economic Development and Protective Services. Date:	Name: Position: Date:
	6) If the EIA relates to a matter that has to go before a Committee, Committee report author sends the Committee Report and this form, and any supporting assessment documents, to the Officers responsible for monitoring and the Committee Officer of the relevant Committee. e.g. Social Work and Housing Committee.		Date:
	7) EIA author sends a copy of the finalised form to: eia@abdnshire		Date:
(Equalities team to complete) Has the completed form been published on the website? YES/NO		Date:	

