

NORTH LANARKSHIRE COUNCIL

REPORT

To: ENVIRONMENTAL SERVICES COMMITTEE		Subject: THE CHILDREN & YOUNG PERSONS (PROTECTION FROM TOBACCO) ACT 1991
From: HEAD OF PROTECTIVE SERVICES		
Date: 19 AUGUST 2009	Ref: CM/PF/EC	

1. PURPOSE OF REPORT

- 1.1 It is a duty of the Council to consider, at least once in every period of twelve months, the extent to which it is appropriate to carry out a programme of enforcement action relating to section 18 of the Children and Young Persons (Scotland) Act 1937 – supply of tobacco products (cigarettes, cigars and cigarette papers) to those under 18 years of age.
- 1.2 To advise members on the level of enforcement activities relating to the Children & Young Persons (Protection from Tobacco) Act 1991 and to seek continued approval of an enforcement strategy in relation to the activity.

2. BACKGROUND

2.1 The Children & Young Persons (Protection from Tobacco) Act 1991 and the Children and Young Persons (Scotland) Act 1937 seek to prevent the supply of tobacco products to young persons under the age of 18 years by:

- Making it an offence to sell cigarettes to young people
- Prohibiting the supply of single or loose cigarettes
- Requiring warning notices to be displayed in shops
- Controlling sales of cigarettes by vending machine

The North Lanarkshire Council has a duty under section 6 of the Children & Young Persons (Protection from Tobacco) Act 1991 to carry out an appropriate enforcement programme and to review this programme at least once a year.

- 2.2 The enforcement programme is carried out by the Trading Standards Service of the Protective Services Division.
- 2.3 This report details the department's Enforcement Strategy in relation to the sale of tobacco products and records the level of enforcement activity carried out by the department during the period 1 April 2008 and 31 March 2009.
- 2.4 The standard return on activities under the Act, as required by the Scottish Government, will be submitted based on the information contained in this report. Indeed the Scottish Government has provided additional funding until 31 March 2011 in order to aid

enforcement activities in this area and accordingly, targets for reducing underage access to tobacco have been set.

3. CONSIDERATIONS

3.1 The Enforcement Strategy shall be:-

- The Trading Standards Service will provide literature to retailers of tobacco, advising them of the law and confirming North Lanarkshire Council's commitment to enforcing its provisions. The Service consults with local traders in order to have them accept the Trading Standards Institute's policy of adopting a "Challenge 25" policy for sales of all age-restricted products – proof-of-age identification is asked of any purchasers who appear to be under 25 years of age.
- The Service will carry out, as part of the normal pattern of enforcement visits, checks on retailers to ensure compliance with the law.
- Complaints from members of the public about sales to under age persons will be investigated.
- Vending machines will be monitored to ensure compliance and action will be taken to have the courts order their removal when appropriate.
- Written warnings will be issued to specific retailers where illegal sales are suspected to have taken place.
- The Service will report breaches of the legislation to the Procurator Fiscal for consideration of proceedings.
- The Service will seek to work in partnership with other departments and organisations to raise public awareness and to issue publicity material and other information.
- An enhanced enforcement programme including covert test purchase exercises will be carried out in line with the Scottish Government's Smoking Prevention Action Plan.

3.2 Enforcement Activities:

The statistics detailed below relate to the period 1 April 2008 – 31 March 2009

Visits to retail outlets: Number

Total visits 279

Trader compliance levels with requirements to display warning notices:-

Notices displayed 263

Notices not displayed 16 (all rectified at time of visit)

Actions:-

Complaints received 16

Written warnings 35

Reports to Procurator Fiscal 3

Information to traders

429

Test Purchases	attempts	192
	sales	38
	% sales	19

- 3.3 As a result of the Service enforcement activities there is a clearer understanding and awareness by traders in North Lanarkshire of the provisions prohibiting the sale of tobacco products to persons under the age of 18 years. There was a small reduction in the percentage of sales to underage persons from 21% (24 sales from 116 attempts) in 2007/08 to 19%(38 sales from 192 attempts) in 2008/09 there were only 3 sales from 23 attempts to purchase for a second time after a warning had previously been issued, these vendors were reported to the Procurator Fiscal. The total number of test purchases was up by 65% from the previous year.
- 3.4 The business training pack – It's Your Call – published in conjunction with the North Lanarkshire Partnership, traders and trade bodies in order to further the education of all with regard to age-restricted products has been delivered to a total of 593 known vendors of tobacco products by the trading standards service with a further 166 being delivered by police colleagues. An education pack for use in schools - Age Matters – has also been produced.
- 3.5 Members are also advised that the Scottish Parliament is currently considering the Tobacco & Primary Medical Services (Scotland) Bill which aims to further reduce the impact of tobacco by banning the display of cigarettes in retail shops, prohibiting the use of vending machines, strengthening the law on under age sales and requiring tobacco retailers to be registered with the Scottish Government. The deadline for completion of Stage 1 of the Bill is 25 September 2009 and members will be informed of its further progress.

4. CORPORATE CONSIDERATIONS

- 4.1 The recommendations are consistent with policy and there are no personnel, legal or property implications.

5. RECOMMENDATIONS

- 5.1 That the Committee note the activities carried out by the Trading Standards Service to protect young persons from tobacco and tobacco products.
- 5.2 That the Committee endorses the enforcement strategy as set out in paragraph 3.1



Crawford Morgan
HEAD OF PROTECTIVE SERVICES

Local Government Access to Information Act: for further information about this report, please contact Peter Fergie Enforcement and Projects Manager (Trading Standards), on 01698 274249