

## NORTH LANARKSHIRE COUNCIL

## REPORT

To: ENVIRONMENTAL SERVICES COMMITTEE	Subject: TOBACCO AND PRIMARY MEDICAL SERVICES (SCOTLAND) ACT 2010 – ENFORCEMENT STRATEGY AND ACTIVITIES	
From: HEAD OF PROTECTIVE SERVICES		
Date: 27 JANUARY 2015	Ref: PB/PF	

**1. Purpose of Report/Introduction**

1.1 It is the duty of the Council to consider at least once in every twelve month period, the extent to which it is appropriate to carry out a programme of enforcement action relating to the supply of tobacco products (cigarettes, cigars and cigarette papers) to those under 18 years of age, by virtue of Section 26 of The Tobacco and Primary Medical Services (Scotland) Act 2010 (hereafter The Act).

1.2 To advise members of the level of enforcement activities relating to The Act, and to seek continued approval of an enforcement strategy in relation to the activity.

1.3 To advise members of the current regulations under The Act, which inter alia:

- Prohibit the selling of tobacco products to under 18s,
- Impose a requirement on vendors to establish proof of age if any customer appears to be under 18 and prescribes the documents that may be accepted for that purpose (a photographic driving licence, passport or a PASS accredited photo card such as Young Scot/National Entitlement card only),
- Impose offences of underage and proxy purchases,
- Provide for the requirement to display a statutory warning notice at point of sale,
- Give police officers powers to confiscate tobacco from anyone under 18,
- Create a national register for tobacco sellers,
- Create an enforcement regime of fixed penalty notices (FPNs) for offences, coupled with an increased duty on local authorities to enforce the law,
- Create a ban on self-service tobacco vending machines,
- Ban the display of tobacco products in larger premises.

**2. Background**

2.1 North Lanarkshire Council has a duty under Section 26 of the Act to carry out an appropriate enforcement programme and to review this programme at least once per year; this is a continuation of a duty under previous legislation of 1991.

2.2 The enforcement programme is carried out by the Trading Standards Service of the Protective Services Division.

2.3 This report details the Service's enforcement strategy in relation to the sale of tobacco products and records the level of enforcement activity carried out by the Service during the period 1 April 2013 to 31 March 2014.

2.4 The standard returns under The Act, as required by the Scottish Government, will be submitted based on the information contained in this report.

### 3. Considerations

3.1 The Enforcement Strategy shall be:

- The Trading Standards service will provide guidance and literature to retailers of tobacco, advising them of the law and confirming North Lanarkshire Council's commitment to enforcing its provisions.
- 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 underage persons will be investigated.
- The Service will issue fixed penalty notices (FPNs) where breaches of legislation have taken place and report any failure to pay to the Procurators Fiscal for consideration for prosecution.
- The service will work in partnership with other services and organisations to raise public awareness and to issue publicity materials and other information.
- An enhanced enforcement programme, including covert test purchases in conjunction with underage volunteers, 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 2013 to 31 March 2014

Visits to retail outlets:-

	<u>Number</u>
Total visits	188

Trader compliance levels with requirements to display warning notices:-

Notices displayed	169
Notices not displayed	19 (all but 2 rectified at time of visit)

Actions:-

Complaints received	5
Reports to Procurator Fiscal	0
Advice and guidance to traders	188

Test Purchases	attempts	79
	sales	13
	% sales	16.5

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 slight rise in compliance to 83.5%. The number of vendors selling on a second occasion was 5 (from 14 attempts). The service has set a target of 84% overall compliance for the financial year 2014-2015.

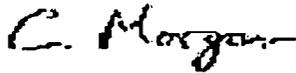
3.4 A total of 22 FPNs were issued for 13 sales of tobacco to underage volunteers and the withdrawal of one persons registration to sell tobacco was sought, after a third sale to an underage person over a two year period.

3.5 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 continues to be supplied to all known vendors of tobacco products by the Trading Standards Service. An education pack for use in schools, 'Age Matters' has also been produced and distributed to all secondary schools.

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

#### **4. Recommendations**

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



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**Crawford Morgan**  
**Head of Protective Services**

Local Government Access to Information Act: for further information about this report, please contact Peter Fergie, Assistant Trading Standards Manager, on 01236 856330