

# AGENDA ITEM No. 6

NORTH LANARKSHIRE COUNCIL

## REPORT

To: ENVIRONMENTAL SERVICES COMMITTEE	Subject: TOBACCO ENFORCEMENT	
From: HEAD OF REGULATORY SERVICES AND WASTE SOLUTIONS		
Date: 16 AUGUST 2016	Ref: PB/PF	

### 1. Purpose

- 1.1 To advise members on the level of activities relating to tobacco enforcement and to seek continued approval of an enforcement strategy in relation to the activity.

### 2. Background

- 2.1 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 activities relating to 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.
- 2.2 This 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 department during the period 1 April 2015 to 31 March 2016.
- 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.
- 2.5 Whilst the incidence of smoking in North Lanarkshire, and particularly amongst its young people, is falling, the area still has one of the highest prevalence rates for smoking in the country. The actions taken by the Trading Standards Service are aimed at reducing access to tobacco firstly by an educational, preventive role and only then via an enforcement process.

### 3. Considerations

- 3.1 The Enforcement Strategy shall ensure that:-
  - The Trading Standards Service will provide guidance 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 under age persons will be investigated.
  - Written warnings will be issued to specific retailers where illegal sales are suspected to have taken place.

- The Service will issue fixed penalty notices (FPNs) where breaches of legislation have taken place and report any failure to pay to the Procurator Fiscal for consideration for prosecution.
- The Service will pursue a tobacco banning order against any businesses selling tobacco products, contrary to the regulations, three times in any two year period.
- The Service will seek to work in partnership with other services and organisations to raise public awareness and to issue publicity material and other information. This includes ongoing representation on the pan Lanarkshire Tobacco Control Strategy Group.
- An enhanced enforcement programme, including covert test purchase exercises utilising underage volunteers, will be carried out in line with the Scottish Government's Smoking Prevention Action Plan.

3.2 The statistics detailed below relate to the enforcement activities undertaken during the period 1<sup>st</sup> April 2015 - 31 March 2016

Visits to retail outlets:-

	<u>Number</u>
Total visits	173

Trader compliance levels with requirements to display warning notices:-

Notices displayed	159
Notices not displayed	14 (all rectified at time of visit)

Actions:-

Complaints received	10
Written warnings	Nil
Reports to Procurator Fiscal	Nil
Information to traders	256

Test Purchases

Attempts	79
Sales	4
% sales	5.1%

- 3.3 As a result of the Service's 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 large fall in the percentage of sales from 12.1% in 2014/15 to 5.1% for 2015/16.
- 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 over 700 known vendors of tobacco products by the Trading Standards Service and police colleagues. An on-line education pack for use in schools, 'Age Matters', has also been produced and distributed to all secondary schools.
- 3.5 The fixed penalty notice (FPN) regime, has seen 6 FPNs issued in respect of four sales of tobacco to Trading Standards underage volunteers; this from 79 attempts. All FPNs for first sales were paid within 14 days, thereby attracting a reduced penalty of £150 each rather than the £200 initially libelled. One business however attracted a FPN of £350 for a second sale.
- 3.6 North Lanarkshire Trading Standards service continues to be one of the leading exponents of advice and enforcement in the area of age restricted products in Scotland.

#### **4. Future Considerations**

- 4.1 The Tobacco and Related Products Regulations 2016 and Standardised Packaging Regulations 2015 came into force recently which will implement new obligations re standardised ('plain') packaging for cigarettes and hand rolling tobacco and regulate the e-cigarette market.
- 4.2 Impending Scottish legislation (expected October 2016) will introduce an age limit (eighteen years) for the supply of e-cigarettes and put the onus on retailers to register as a seller, in the same way that tobacco retailers must do.

#### **5. Financial Implications**

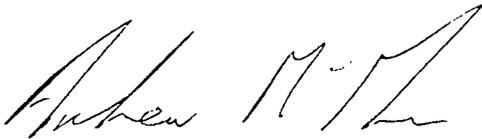
- 5.1 All projected enforcement activities are contained within the Trading Standards budget and there are no additional financial implications arising from these proposals.

#### **6. Corporate Considerations**

- 6.1 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. There are no additional personnel, legal or property implications arising from this report.

#### **7. Recommendations**

- 7.1 That the Committee:
  - a) endorses the enforcement strategy as set out in paragraph 3.1, and
  - b) otherwise notes the contents of this report.



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