

**BUCKINGHAMSHIRE COUNTY COUNCIL AND
SURREY COUNTY COUNCIL**

TRADING STANDARDS JOINT COMMITTEE

DATE: 10 OCTOBER 2018

LEAD OFFICER: DAVID PICKERING

SUBJECT: TRADING STANDARDS TOBACCO WORK

SUMMARY OF ISSUE:

The Children and Young Person's (Protection from Tobacco) Act 1991 requires Local Authorities to consider, at least once in every period of twelve months, the extent to which it is appropriate to carry out enforcement action to ensure that the provisions of the Children and Young Persons Act 1933, are effected. This seeks to prohibit the sale of cigarettes and associated items, such as nicotine delivery systems, to persons under the age of 18. This duty relates to tobacco enforcement only.

The Service undertakes work in this area supporting the delivery of the Public Health improvement outcomes and responsibilities that relate to the use of tobacco in order to help people to live healthy lifestyles; make healthy choices and reduce health inequalities.

This report considers the Service's work in relation to tobacco and associated products and is not restricted to the potential sale to children and young people.

RECOMMENDATIONS:

It is recommended that:

The Joint Committee consider the report as a reflection of activity over the financial year 2017 – 2018 and consider enforcement activities which may be undertaken in 2018– 2019.

REASON FOR RECOMMENDATION:

1. The Children and Young Person's (Protection from Tobacco) Act 1991 requires Local Authorities to consider, at least once in every period of twelve months, the extent to which it is appropriate to carry out enforcement action to ensure that the provisions of the Children and Young Persons 1933 Act, are effected.

DETAILS:

2. To ensure coherence and to maximise the impact of our work, Trading Standards link closely to Public Health led strategies to reduce tobacco consumption. The Trading Standards role is mainly in relation to tackling supply. However increasing levels of innovation in the e cigarette and alternatives to tobacco market continue to provide constant challenges to us when assessing how the legislation applies to them. The Service has also facilitated links to be made between Surrey and Buckinghamshire Public Health teams to share information and good practice.

3. In Surrey, Trading Standards chair the Tobacco Alliance. This group of partners oversee the delivery of the Public Health Tobacco Control Strategy for Surrey and reports back to the Health & Wellbeing Board. With the ambition for Surrey to have the lowest smoking prevalence in England, the Priorities include, among others; “helping young people to be tobacco free”; “tackling illicit tobacco” and “raising the profile of tobacco control”. The Strategy can be found at:

<https://www.healthysurrey.org.uk/your-health/smoking/smokefree-surrey/tobacco-control-strategy-for-surrey>

Progress against these priorities was reported to the Surrey Health and Wellbeing Board in September 2017:

https://www.healthysurrey.org.uk/_data/assets/pdf_file/0019/144730/September-2017-Public-Update.pdf

4. The Trading Standards Service is coordinating with Buckinghamshire Public Health to ensure that potential supply of illicit tobacco can be tackled as effectively as possible and that this is recognised in the public health context.

5. The continued rise in retail sale and use of nicotine inhaling devices resulted in the Children and Family Act 2014 being amended to include two new important provisions (brought in by regulations): The Nicotine Inhaling Products (Age of Sales and Proxy Purchasing) Regulations 2015 make it a criminal offence for an adult to buy these items on behalf of a minor and also for a retailer to sell these items to a minor. A maximum fine of £2,500 is available to the courts and Trading Standards are responsible for enforcement. The Service has advised relevant businesses of the requirements. There were no complaints relating to proxy sales in 17/18 and no formal action has been taken under these Regulations to date.

6. Tobacco use among young people is considered as risk-taking behaviour (by themselves as much as anyone else) and may be seen therefore as gateway-behaviour for other risk taking activities. These would include experimenting with alcohol and new psychoactive substances (NPS), when this is combined with carrying offensive weapons and misuse of fireworks the resulting anti-social behaviour adversely affects how safe people feel in their own communities.

7. The programme for the financial year 2017/2018 was as follows:-

7.1 Continue to participate in those new projects and initiatives that fit within our enforcement activities outlined above together with our own initiatives where they are felt necessary.

We took part in a nationally coordinated project that checked E cigarettes and associated products compliance. Out of the 20 visits issues were found at 10 outlets mainly connected to labelling and old stock. Corrective action was taken at the time.

The Service participated a south east regional project looking at the contents and labelling of e cigarette liquids. Issues were found with one liquid containing non- permitted ingredients and about a quarter of the liquid refills were found to be incorrect mainly for labelling matters or being the incorrect size.

Reports on this work are being compiled by the Chartered Trading Standards Institute (CTSI) and will be available at the end of September 2018.

7.2 Promote the education message about the harm illicit tobacco causes and the smoking cessation message and gather any intelligence about sales of illicit tobacco to identify sources.

We ran four roadshows in August 2017 in Surrey at venues in Redhill, Staines, Woking and Guilford in partnership with our Public Health colleagues and a sniffer dog (see photo's below). As well as promoting messages about our work preventing the supply of illicit tobacco smoking cessation services gave advice to residents about the support available to help them stop smoking.



Publicity regarding the event can be found at these links:
<https://news.surreycc.gov.uk/2017/08/08/sniffer-dogs-to-take-centre-stage-at-roadshows-highlighting-illegal-tobacco-trade/> and
<https://www.youtube.com/watch?v=saJqJwkAl7Y>

The intelligence gathered will help to inform visits to potential suppliers of illicit tobacco in 2018.

7.3 Promote the smoke free homes initiatives in Surrey.

This promotion was largely be through our social media channels. The Service regularly re-tweets messages from Public Health to support and extend the reach of their messages.

7.4 Support the development of the tobacco reduction strategy with Public Health in Buckinghamshire by providing input around tackling supply routes.

We continue to work with colleagues in Public Health to develop appropriate interventions.

7.5 Continue to use local, regional and national intelligence to ensure we target our interventions and resources appropriately by: exploring ways to improve intelligence sharing between relevant partners; upgrading intelligence from all viable sources; and exploring alternative means of detecting sales (other than by test purchases).

A targeted visit with a sniffer dog, to a trader in High Wycombe in December 2017 resulted in legal proceedings. The Magistrates Court imposed a sentence of 12 weeks custody, reduced to 8 weeks for the trader's early guilty pleas, which was suspended for 12 months. He was also ordered to pay £1,500 towards the prosecutions costs and was subject to a £150 victim surcharge. Forfeiture of the 218 packs of 20 cigarettes and 19 50g pouches of hand rolling tobacco was also granted. This was the most stringent sentence given for this type of offence that the Service has seen, reflecting the court's view of the severity of the circumstances surrounding the case.

Bucks Free Press

NEWS
20th June
Shop owner Chandrasegaram Mughaya punished after £2.5k worth of illegal cigarettes and tobacco discovered at N&N Newsagent, Desborough Road, High Wycombe



Shop owner punished after £2.5k worth of illegal cigarettes and tobacco discovered

A shop owner has been handed a suspended jail sentence after illicit cigarettes and tobacco worth around £2,500 were found at his newsagents in High Wycombe.

The South East region commissioned a report on public attitudes to the supply and use of illicit tobacco. We attended the conference that disseminated the findings and are discussing how we can use the data with our Public Health colleagues in both authorities to target our interventions more effectively.

We are also a virtual member of the national tobacco focus group which gives us access to information about developments in the trade sector and an insight into national issues.

We continue to ensure intelligence opportunities with potential partners are explored as well as maintaining existing channels.

7.6 Seek licence reviews through the relevant District Council when appropriate.

Prosecutions for illicit tobacco can be used to add additional conditions onto the premises licence including the installation of CCTV at the premises, price labels on the alcohol to include the name of the shop, or the imposition of clear and stringent stock control measures. We did not seek any such reviews in 2017-18.

7.7 Continue to support retailers by promoting the use of the Challenge 25 Training Pack and advising traders about legislative requirements in this area.

This was done in response to requests for advice on underage sales legislation and also promoted proactively during visits to traders for other reasons.

7.8 Continue to ensure that the restrictions of both price marking and visual display requirements of tobacco products in retail premises are adhered to.

These were checked when visiting relevant premises and no issues were found.

7.9 Use all complaints to provide intelligence to target resources correctly.

Following guidance contained in 'challenge 25 training pack' combined with in-shop training, retail premises continue to improve their own precautionary procedures. This increasing diligence has seen the level of complaints received by this service concerning underage sale of cigarettes (including sales of illegal tobacco products) fall to be less than 1 per month on average. Such intelligence (if deemed reliable) is added to our database for intelligence led work.

Information received about alleged supply of illicit tobacco will be used to target premises for future visits with a tobacco sniffer dog.

With regard to tobacco products and e-cigarettes we received 119 complaints in 2017-18. 58 of these related mainly to the alleged supply of illicit tobacco. 39 related to issues with e-cigarettes and liquid refills and 20 to alleged supply of illicit loose tobacco.

8. For 2018-19 we will:

8.1 Continue to participate in those new projects and initiatives that fit within our enforcement activities outlined above together with our own initiatives where they are felt necessary.

These will include, in relation to e-cigarettes, new labelling requirements and stipulations on the size of the containers have also recently come into force. We will participate in any nationally coordinated projects as well as using local intelligence to target tobacco related issues. We will also be using tobacco sniffer dogs to target potential suppliers.

8.2 Promote the education message about the harm illicit tobacco causes and the smoking cessation message and gather any intelligence about sales of illicit tobacco to identify sources.

This will include running a series of four illicit tobacco roadshows across Surrey, and two in Buckinghamshire, these being jointly funded by Trading Standards and SCC and BCC Public Health.

Using intelligence gathered from the roadshows and other intelligence that has come into the service, Trading Standards plans to carry out operations in both Bucks and Surrey using the tobacco sniffer dogs to inspect identified premises for illicit tobacco.

8.3 Support the development of the tobacco reduction strategy with Public Health in Buckinghamshire by providing input around tackling supply routes.

8.4 Continue to use local, regional and national intelligence to ensure we target our interventions and resources appropriately by: exploring ways to improve intelligence sharing between relevant partners; upgrading intelligence from all viable sources; and exploring alternative means of detecting sales (other than by test purchases).

8.5 Seek licence reviews through the relevant District Council when appropriate.

Prosecutions for illicit tobacco can be used to add additional conditions onto the premises licence including the installation of CCTV at the premises, price labels on the alcohol to include the name of the shop, or the imposition of clear and stringent stock control measures.

8.6 Continue to support retailers by promoting the use of the Challenge 25 Training Pack and advising traders about legislative requirements in this area.

This would be done in response to requests for advice on underage sales legislation and also will be promoted proactively during visits to traders for other reasons.

8.7 Continue to ensure that the restrictions of both price marking and visual display requirements of tobacco products in retail premises are adhered to.

CONSULTATION:

9. No external consultation has occurred.

RISK MANAGEMENT AND IMPLICATIONS:

10. We are supporting an important strand of tobacco reduction strategies by seeking to reduce the supply of tobacco products. If we are unable to carry out this work the effectiveness of this will be reduced and it is more likely that such products will be available to children and young people.

Financial and Value for Money Implications

11. The work in this area is carried out by a number of officers as a small part of their wider role. At times work in this area, such as advice to businesses, is combined with other visits that officers are carrying out to the same premises or area to maximise efficiency. Overall approximately 0.5 FTE per year is spent on this work in total. This report is suggesting that the Service broadly maintains its approach to this work and therefore there is no additional financial implication beyond that which is already committed.

Legal Implications

12. The legal implications are as set out in the main body of this report

Equalities and Diversity

13. Tobacco consumption is disproportionately prevalent in particular socio economic groups; tackling tobacco consumption is likely to have a positive impact in helping tackle health inequalities. There is no likely negative disproportionate impact arising from the work described in this report on people with protected characteristics.

WHAT HAPPENS NEXT:

14. This is set out in section 8 above.

Contact Officer:

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Consulted:

Annexes: None

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