

BUCKINGHAMSHIRE COUNCIL AND SURREY COUNTY COUNCIL

TRADING STANDARDS JOINT COMMITTEE

DATE: 10 APRIL 2024

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 considers and notes the report as a reflection of activity over the financial year 2023–2024 and endorses continued enforcement activities which will be undertaken in 2024– 2025.

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 affected.

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 alternatives to tobacco, such as vapes, continue to provide constant challenges to us when assessing how the

legislation applies to them. We link into the regional tobacco groups and HMRC national initiatives.

3. Trading Standards are members of the Tobacco Control Alliance groups in Buckinghamshire and Surrey.

In Surrey the group of partner organisations form part of the Combating Drugs Partnerships .The group oversees the delivery of the Public Health Tobacco Control Strategy and reports back to the Surrey Community Safety 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 Surrey Tobacco Control Strategy for 2023-2026 was launched last year

[Surrey Tobacco Control Strategy 2023-2026 | Healthy Surrey](#)

In Buckinghamshire the Tobacco Control Alliance group reports to the Health and Wellbeing Board. The Buckinghamshire Tobacco Control Strategy “Towards a smoke free generation” was launched in June 2019 and we are supporting this by tackling the supply of illicit tobacco and supporting the Alliance group:

[Buckinghamshire-Tobacco-Control-Strategy-2019-2024.pdf \(healthandwellbeingbucks.org\)](#)

The four main themes of the Buckinghamshire Strategy are Prevention First, Supporting smokers to quit, Eliminating variations in smoking rates and effective enforcement, with an overall focus on key groups.

4. 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 other illicit substances 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.
5. Sales of illicit tobacco facilitate a cheap way to start or continue smoking and as such needs to be minimised to reduce this impact. In addition, legitimate businesses are disadvantaged threatening small businesses in the local economy. <https://www.illicit-tobacco.co.uk/problem/illicit-tobacco/>
6. There is evidence that the supply of illicit tobacco can be linked to organised crime and we work in partnership with the police to ensure appropriate dissemination of intelligence. We also populate the national IDB intelligence database which is accessed by HMRC and other relevant partners. We have seen in the past year evidence that organised crime groups are operating in our area and we are liaising with other authorities to ensure effective joint action. https://www.eesc.europa.eu/sites/default/files/files/mr_arndt_sinn_speech.pdf
7. The programme for the financial year 2023/2024 was as follows:-
 - 7.1. **Contribute to the Surrey and Buckinghamshire Tobacco Control Strategies by taking action to reduce the supply of illicit tobacco through intelligence and enforcement.**

We gathered local intelligence and used appropriate enforcement action against suppliers. Intelligence was shared across relevant enforcement agencies to tackle organised distribution networks,

Visits to 23 premises resulted in 93,765 cigarettes, 16,205g of hand rolling tobacco and 33 packages of shisha of various sizes being seized. Using tobacco detection dogs for these operations is vital because the illicit tobacco is usually hidden from view. Hiding places vary and are becoming more sophisticated in some instances. These include mechanisms which can be triggered to access the tobacco products.

The Service has taken one prosecution and issued one simple caution. Sentencing is delayed in relation to the prosecution as the limited company pleaded guilty but the director of the business pleaded not guilty and the trial is set for May 2024. The Court decided to delay sentencing until after the trial.

27 written warnings were issued to businesses, relating to the sale of illicit vapes, underage sales of vapes and cigarettes and possession of illicit tobacco, where there were no additional aggravating factors.

We are progressing obtaining closure orders for several premises in Buckinghamshire with the Council and are discussing the possibility of similar orders in Surrey with the police.

We have supported the police with two alcohol licence reviews in Surrey, both of which resulted in the licences being revoked.

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.

The Service works with Public Health to achieve the best outcome we can from an educational perspective in particular identifying the best use of social media to target messaging. We also use social media as a way to remind the public to share information with us about businesses selling to underage children, for example:



Alongside the Public Health Team in Buckinghamshire, we ran two Illegal Tobacco Roadshows in the markets of Aylesbury and High Wycombe. These were an opportunity for Public Health to share messages around quitting smoking and how people could get support, for us to show people what illegal vapes look like so they can avoid them and for our dog handlers to show the skills of the tobacco detection dogs that we use to find hidden tobacco. Pippa the

detection dog continues to be a great draw and an excellent way to start a conversation about the issues with local people.



The Service has also attended events run by Public Health in Buckinghamshire aimed at school children to provide information about cigarettes and vapes.

We continued to liaise with both Councils communications teams to publicise our work about tobacco issues and used social media in the service to promote our work.

7.3. We will continue to support the Tobacco Alliance groups in both authorities

We continued to support both the Surrey Tobacco Group and Buckinghamshire Tobacco Control Alliance groups and participated in meetings organised for both authorities. We worked with partners on the groups to deliver the agreed strategies to reduce smoking prevalence rates in both authorities. In particular we developed closer links with HMRC by agreeing an MOU which will enable us to work with them as they have powers to impose fines on retailers selling illegal tobacco products. We also continued to work closely with Surrey police and TVP when carrying our operations.

In Buckinghamshire our Public Health team agreed to fund a full-time officer for 2 years to work on tobacco and other illicit substances issues and this is proving to be successful in boosting our capacity for that area.

7.4. Continue to use local, regional and national intelligence to ensure we target our interventions and resources appropriately

We continued to explore ways to:

- improve intelligence sharing between relevant partners;
- upgrade intelligence from all viable sources; and
- explore alternative means of detecting sales (other than by test purchases)

We are members of the regional south east tobacco group and consistently share information and intelligence with that group to gain greater knowledge and understanding of the regional and national picture

7.5. Seek licence reviews through the relevant District/Unitary Council when appropriate.

We were involved in two reviews in the last year, both resulting in the alcohol licences being revoked.

7.6. Continue to monitor the market for alternatives to tobacco products, such as vaping products, to assess potential risks and look for solutions to ensure any risks to consumer safety is minimised

8. The ongoing developments around the supply of vapes is being monitored. We are also aware of the increasing use of nicotine pouches which are currently not controlled directly by any legislation but intelligence suggests are becoming popular with younger people.

9. For 2024-2025 we will:

9.1. Contribute to the Surrey and Buckinghamshire Tobacco Control Strategies by taking action to reduce the supply of illicit tobacco through intelligence and enforcement.

We will gather local intelligence, use appropriate enforcement action against suppliers, share intelligence across relevant enforcement agencies to tackle organised distribution networks, repeat the illicit tobacco campaign, gather local intelligence and enforcing regulation on nicotine containing devices, raise the profile of the issue through local publicity and participate when relevant in nationally organised campaigns.

We will participate in joint operations with the HMRC and police to identify and take appropriate action against sellers of illicit tobacco

We will continue to carry out work to identify if there are issues with providers of shisha tobacco in both authorities.

We will programme targeted test purchase operations every 6 weeks and aim to carry these out as resources allow.

We will continue to develop alternative disruption measures against businesses that seek to evade or flaunt enforcement measures by utilising closure orders and actions against complicit landlords under proceeds of crime legislation

9.2. 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 will work with Public Health to achieve the best outcome we can from an

educational perspective in particular identifying the best use of social media to target messaging.

We will continue to liaise with both Councils communications teams to publicise our work about tobacco issues.

9.3. We will continue to support the Tobacco Alliance groups in both authorities

We will continue to support both the Surrey Tobacco Control Alliance and Buckinghamshire Tobacco Control Alliance groups and will participate in meetings organised for both authorities. We will work with partners on the groups to deliver the agreed strategies to reduce smoking prevalence rates in both authorities.

9.4. Continue to use local, regional and national intelligence to ensure we target our interventions and resources appropriately

We will continue to explore ways to:

- improve intelligence sharing between relevant partners;
- upgrade intelligence from all viable sources; and
- explore alternative means of detecting sales (other than by test purchases)

9.5. Seek licence reviews through the relevant District/Unitary 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.

9.6. Continue to monitor the market for alternatives to tobacco products, such as vaping products, to assess potential risks and look for solutions to ensure any risks to consumer safety is minimised

Following highly variable results from under age test purchasing of vapes in 23/24 (on the worst day of test purchasing 71% of premises sold, on another day no premises sold to the under 18 volunteer) we will utilise intelligence and information to target businesses identified as supplying vaping products to under 18 year olds and attempt test purchases from them.

CONSULTATION:

10. Public Health teams in Surrey and Buckinghamshire have been consulted.

RISK MANAGEMENT AND IMPLICATIONS:

11. 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

12. 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. 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

13. As covered in the report, there is a requirement for Local Authorities to consider their enforcement activity at least once in every twelve month period to ensure that the provisions of the Children and Young Persons (Protection from Tobacco) Act are effected. The report outlines the relevant enforcement actions taken and planned to enable this consideration.

Equalities and Diversity

14. Tobacco consumption is disproportionately prevalent in particular socio-economic groups; tackling tobacco consumption has 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:

15. This is set out in section 8 above.

Contact Officer:

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Consulted:

Annexes: None

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