

**BUCKINGHAMSHIRE COUNCIL AND SURREY COUNTY COUNCIL**

**TRADING STANDARDS JOINT COMMITTEE**

**DATE:** 4 APRIL 2022

**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 notes and considers the report as a reflection of activity over the financial year 2021 – 2022 and endorses continued enforcement activities which will be undertaken in 2022– 2023.**

**REASON FOR RECOMMENDATION:**

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:**

1. 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 e cigarettes, 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. We also link into the regional tobacco groups and the Chartered Trading Standards Institute (CTSI) led Department of Health and Social Care funded national initiatives

2. 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”.

In partnership with our Public Health colleagues the remit of the group has been extended recently to include alcohol issues as there are common areas of concern.

The Surrey strategy for 2022-2026 is being developed and will reflect the priorities in the new national strategy (when released later this year) as well as local ones.

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.

Progress on the plan was reported to the Buckinghamshire Health and Wellbeing Board in July 2021

[Tobacco Control Strategy Update Action Plan.pdf \(moderngov.co.uk\)](#)

3. 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.
4. 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/>

5. There is evidence that the supply of illicit can be linked to organised crime and we work in partnership with the police to ensure appropriate dissemination of intelligence

[https://www.eesc.europa.eu/sites/default/files/files/mr\\_arndt\\_sinn\\_speech.pdf](https://www.eesc.europa.eu/sites/default/files/files/mr_arndt_sinn_speech.pdf)

6. The programme for the financial year 2021/2022 was as follows:-

**6.1. 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,

The illicit tobacco campaign continued. We used test purchasers to gather intelligence and information. 46 unannounced test purchase visits were carried out and the intelligence obtained from these was used to target premises using sniffer dogs.



We carried out 37 visits resulting in 3480 packets of 20 cigarettes, 5970g of hand rolling tobacco seized and 41 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, but this year we have found tobacco being kept in boxes for legitimate products, such as this chocolate box below, through to being behind false panels in cupboards.



One prosecution has been successfully taken this year. 7 other businesses found selling illicit tobacco are currently under investigation.

Our work at the Heathrow import sheds resulted in a haul of over 36,000 illicit cigarettes being prevented from importation into the country. Liaison with the authority where the consignment was heading caused significant disruption to that particular supply chain

We continued to gather local intelligence and enforce regulations on vaping devices and associated liquids, raising the profile of the issue through local publicity. We carried out 4 visits relating to such devices resulting in 45 illegal vaping liquid refills being seized. These were either an incorrect size or composition. We have intelligence that such refills are being imported from the USA following the ban there on certain vaping liquids. The situation is being kept under review to assess if this is a longer term issue

We participated in a joint operation with the HMRC to identify and take appropriate action against sellers of illicit tobacco. Some of this work was funded by HMRC.

Ongoing lockdown restrictions hampered work to identify if there are issues with providers of shisha tobacco in both authorities but we intend to pursue this work in 2022

## **6.2. 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 worked 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 continued to liaise with both Councils communications teams to publicise our work about tobacco issues.

[Sunbury shopkeeper sold laughing gas to children during undercover sting - Surrey Live \(getsurrey.co.uk\)](https://www.getsurrey.co.uk)

To illustrate our work in partnership with Surrey police using sniffer dogs from Wagtail UK to deal with illicit tobacco we produced a video which was posted on YouTube and other social media.

[Trading Standards Illegal Tobacco Raid - YouTube](https://www.youtube.com/watch?v=...)

### **6.3. We continued to support the Tobacco Alliance groups in both counties**

We continued to Chair the Surrey Alliance group and participated in meetings organised for both Councils. We participated in producing the new tobacco control strategy in Surrey. We continued to work with partners on the groups to deliver the agreed strategies to reduce smoking prevalence rates in both counties.

### **6.4. We continued to use local, regional and national intelligence to ensure we target our interventions and resources appropriately**

We generated our own local intelligence using test purchasers. We monitored regional and national intelligence by actively participating in regional and national groups and used it when appropriate. By using intelligence we targeted our interventions on identified higher risk businesses. This was reflected in a significant success rate in finding illicit tobacco.

### **6.5. Seek licence reviews through the relevant District/Unitary Council when appropriate.**

We sought one licence review this year and continue to liaise with licensing colleagues in both authorities to support a compliant marketplace.

### **6.6. We continued 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**

The supply of vaping products continues to be a dynamic and increasing market in terms of both quantity and variety of products.

We have seen a significant increase in the incidence of complaints and intelligence about under age sales of vaping products and will use this to target work on the issue in 2022. We are planning to carry out 5 under age sales operations in March 2022.

The continuing uncertainty and lack of confidence in some areas advising about smoking cessation has been mitigated to an extent by the message that residents who wish to stop smoking should be referred to the relevant smoking cessation service.

We continued to liaise with partner agencies, in particular about the use of CBD oil in vaping liquids and any regulatory issues this raised. CBD and presence of controlled drugs continues to raise issues.

## **7. For 2022-23 we will:**

### **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 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 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.

**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 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.

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

We will continue to Chair the Surrey Alliance group and will participate in meetings organised for both Councils. We will work with partners on the groups to deliver the agreed strategies to reduce smoking prevalence rates in both counties.

**7.4. 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)

**7.5. 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.

**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**

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.

2022 has seen a significant increase in complaints about alleged under age sales-there were 28 in 2021 but so far 20 have been received since the beginning of 2022.

We will continue to monitor the sale of vaping refills in particular to assess compliance

**CONSULTATION:**

8. Public Health teams in Surrey and Buckinghamshire have been consulted with and have contributed to this report.

**RISK MANAGEMENT AND IMPLICATIONS:**

9. 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**

10. 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**

11. As outlined in the report, there is a requirement for Local Authorities to consider carryout enforcement actions at least once in every twelve month period, to ensure that the provisions of the Children and Young Persons Act 1933, are effected. The report outlines the enforcement action taken and the legal consequence to such action.

**Equalities and Diversity**

12. 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:**

13. This is set out in section 8 above.
- 

**Contact Officer:**

David Pickering, Trading Standards Manager, Regulation 01372 388779

**Consulted:**

**Annexes:** None

---