

LICENSING COMMITTEE: 11 January 2011

UNDERAGE SALES

Report of the Chief Strategic Planning and Environment Officer

1. Background

The Council has a statutory duty to consider, at least once a year, the extent to which the Authority should carry out a programme of enforcement under the Children and Young Persons (Protection from Tobacco) Act 1991 and the Anti-social Behaviour Act 2003. These acts deal with the enforcement of under age sales of tobacco and aerosol paint containers respectively.

The County Council also has the responsibility with the police for enforcement of underage sales of alcohol under the Licensing Act 2003.

In addition, the Council, through its trading standards service undertakes enforcement of under age sales of:

- Age rated videos and DVD's (*Video Recordings Act 2010*),
- Cigarette lighter refills (*Cigarette Lighter Refill (Safety) Regulations 1999 and Consumer Protection Act 1987*),
- Fireworks (*Fireworks (Safety) Regulations 1997 and Fireworks Act 2003*).
- Solvents *Intoxicating Substances (Supply) Act 1985*.
- Knives *The Criminal Justice Act 1988*
- Lottery tickets *National Lottery etc. Act 1993/National Lottery Regulations 1994*

This report informs Members of work in relation to underage sales during 2010 in Cardiff and outlines proposals for a monitoring programme for 2011 for consideration by members and seeks approval to implement that programme.

2. Underage sales statistics 2009 and 2010

- 2.1 Trading Standards officers have been enforcing age restricted sales legislation for some years. Combating under age sales has involved a blend of enforcement, through test purchasing, and a variety of educational approaches.
- 2.2 In addition to guidance and advice to businesses and dealing with complaints, it is also appropriate to use a programme of test purchasing using child volunteers. Test purchasing of age-restricted products using children often attracts criticism. Cardiff Trading Standards Officers follow a strict code of practice approved by LGR and the Home Office, to ensure that the welfare of any child is of paramount importance.

- 2.3 Despite a continuing downward trend of illegal sales detected through test purchasing, the level of complaints about sales of alcohol, tobacco and fireworks remains relatively constant. (36 in 2009 and 34 in 2010)
- 2.4 The Table given below shows the level of activity undertaken by trading Standards in the last two years and also outlines the Welsh average for the period

Test Purchases – Attempted (Illegal Sale)

Product	Cardiff 2009	Welsh Average 2009	Cardiff 2010
Alcohol	135 (13) 9.6%	13%	122 (6) 4.9%
Chocolate Liquors	0	N/A	0
Fireworks	52 (2) 3.8%	6.5%	25 (2) 8.0%
Cigarettes	176 (26) 14.7%	18%	91 (14) 15.3%
Knives and Blades	44 (18) 40.9%	16%	27 (4) 14.8%
Videos	17 (3) 17.6%	N/A	2 (0) 0%
Aerosol paints / solvents	12 (5) 41%	N/A	9 (1) 11%
Lottery tickets	1 (0) 0%	N/A	0
Other underage sales,	14 (4) 28.5%	N/A	0
Retailer training sessions	7	N/A	0

- 2.5 Where illegal sales were detected, reports were generated and in 2009, this resulted in 12 prosecutions, 9 simple cautions, 1 restricted premises order and 5 warnings.

In 2010, to date there have been 4 prosecutions, 8 simple cautions, and 3 warnings, with a number of cases still under investigation.

2010 also saw Trading Standards Officers use Penalty Notices for Disorder (PNDs) for the first time to deal with illegal sales of alcohol. PNDs were introduced by the Police Reform Act 2002 as an alternative sanction to prosecution and caution. Their purpose is to deal with ‘low level anti-social and nuisance offending’, offering a quick and effective way of dealing with

offenders and reducing the time spent by enforcement staff in completing case reports and attending court.

- 2.6 There has been a continued downward trend in the illegal sale of alcohol from off licences in the city in respect of test purchasing and the sales detected are significantly lower than the Welsh average. Much of this can be attributed to the advice and guidance issued and the willingness of the retailers to adopt most robust selling practices.

Sales of cigarettes and knives remain unacceptably high and enforcement will be targeted in this area in 2011.

3. Proposed activity

Illegal alcohol and tobacco sales continue to be the main areas of complaint as regards age restricted products. The enforcement programme proposed in this report represents a continuation of previous policies and plans within available resources. Committee is asked to approve the following enforcement programme for 2011:-

- Alcohol, - to carry out **100** purchases from shops (off-licensed premises)
- Fireworks – to carry out test purchases at businesses, particularly where they have sold illegally in the past, and where feedback indicates that fireworks are being used inappropriately in the locality (**20** premises).
- Tobacco – to inspect signage and advertising, the siting of vending machines and carry out **100** test purchases.
- Knives - to respond to communities' concerns and carry out test purchases at up to **50** business premises and attempt purchases over the Internet.
- The Sunbeds (Regulation) Act places a duty on providers of sunbeds to prevent sunbed use by children under 18. Failure to comply with this requirement renders that person liable on summary conviction to a fine not exceeding £20,000. This report seeks to gain the approval of Members to use child test purchase volunteers for this purpose and to undertake **20** test purchases in 2011.
- Graffiti – to react to communities' needs and carry out advice visits to shops on the sale of aerosols in those areas where graffiti is a problem.
- Solvents - to respond to communities' concerns and take proportionate actions to address them.

Underlying this programme of enforcement activity will be a continued education initiative using a range of materials and a focus upon “Challenge 21”.

4. Achievability

This report contains no equality personnel or property implications.

5. Legal Implications

- 5.1 There is a range of criminal offences that can be prosecuted in respect of underage sales, although some cases will be dealt with by cautions or warnings.

6. Financial Implications.

- 6.1 There are no financial implications which arise directly from this report.

7. Recommendation

- 7.1 That the report be noted and received on an annual basis.

SEAN HANNABY **15 December 2010**
CHIEF STRATEGIC PLANNING AND ENVIRONMENT OFFICER

This report has been prepared in accordance with procedures approved by Corporate Managers.

Background Papers: None