

## EAST AYRSHIRE COUNCIL

### COMMUNITY SERVICES COMMITTEE – 10 NOVEMBER 2004

#### SALE OF TOBACCO PRODUCTS TO YOUNG PERSONS

##### Report by Executive Director of Neighbourhood Services

### 1. PURPOSE OF REPORT

- 1.1 To advise the Community Services Committee of the enforcement action taken over 2003/2004 to satisfy the legal measures introduced by the Children and Young Person (Protection From Tobacco) Act 1991, which are designed to control the sale of tobacco products to young persons.

### 2. BACKGROUND

- 2.1 The main controls introduced by the 1991 Act were set out in a report noted by the Committee on 3 September 1996.
  - 2.1.1 Selling cigarettes to *any* child under 16 years, whether or not he or she appears to be so, is illegal.
  - 2.1.2 It is illegal to sell single or unpacked cigarettes to anyone, child or adult. The penalty for this offence provides a maximum fine of £1,000.
  - 2.1.3 Sales from vending machines are controlled. If a child is seen buying from a cigarette machine, an application can be made to a court of summary jurisdiction for an order to regulate its use or for its removal from the premises in which it is located. The order can be against the owner of the machine or the person on whose premises it is located.
  - 2.1.4 The penalty for the offence of selling tobacco to children is a maximum fine of £2,500.
- 2.2 The Scottish Office has through the Home and Health Department produced guidance notes for the Trading Standards Service on the enforcement of the Act. The guidance expressly excludes the employment of children to make test purchases with a view to court proceedings.
- 2.3 The Council has a statutory responsibility to review its enforcement policy on an annual basis.

### 3. ENFORCEMENT PROGRAMME

- 3.1 The Provisions of the Children and Young Persons (Protection From Tobacco) Act 1991 were enforced over 2003/2004 as follows:
  - 3.1.1 The Trading Standards Service carried out, as part of its normal pattern of enforcement, 203 visits on retailers to ensure compliance with the law and distribute appropriate advisory literature.

- 3.1.2 74 vending machines were monitored to ensure compliance. No action was required to be taken to ask the Courts to order the removal of any such machine.
- 3.1.3 1 warning notice was issued to a retailer in respect of failure to display the appropriate notice warning that it is an offence to sell tobacco products to persons under 16 years of age. Additionally, at 32 other premises, advice was given as to the requisite prominence of this statutory notice.
- 3.1.4 1 complaint about sales to young persons was received during the year. Although sales of tobacco products to young persons is regarded as an important issue amongst health and law enforcement professionals, it does not appear to be regarded in a similar way by the general public.
- 3.1.5 In accordance with Scottish Executive guidelines, East Ayrshire Council's Trading Standards Service does not involve children in the making of test purchases. These guidelines are under review and enforcement practice may alter in accordance with any revised guidance.
- 3.1.6 An additional method of achieving compliance with the legal measures introduced by the Children and Young Persons (Protection From Tobacco) Act 1991 will be the introduction of a proof of age card scheme which is currently being progressed through the Department of Educational and Social Services

#### **4. OTHER INITIATIVES**

- 4.1 Danger Detectives – East Ayrshire's Experiential Learning Project, Danger Detectives, involves 46 schools and some 1600 pupils. Part of the Trading Standards Set, the Hazard House, emphasizes the dangers of smoking to young children as well as the age restriction on the sale of tobacco.
- 4.2 Young Scot Card Scheme – Trading Standards have agreed to participate in this proof of age card scheme, which is being developed as part of the Dialogue Youth Initiative, by distributing retailer awareness and training packs outlining the national **PASS** Proof of Age Standards Scheme.
- 4.3 Age Restricted Sales Pack – Working in conjunction with East Ayrshire Community Safety Partnership, who are funding the project, an information pack for traders has been produced outlining traders' responsibilities in respect of 9 products, including cigarettes, the sale of which is subject to age restriction. The pack also contains a refusal record book, refusal cards and a window sticker. The intention is that these packs will be distributed to approximately 700 traders throughout East Ayrshire to coincide with the issue of Young Scot Cards. This East Ayrshire branded pack complements and reinforces the national Young Scot Scheme.

#### **5. FINANCIAL IMPLICATIONS**

- 5.1 Nil.

#### **6. LEGAL IMPLICATIONS/AUTHORITY**

- 6.1 Section 6 of the 1991 Act places a duty on East Ayrshire Council to establish a policy of enforcement and to review at least once in every twelve month period their enforcement programme.

## **7. POLICY IMPLICATIONS**

7.1 The enforcement programme and other initiatives outlined at paragraphs 3 and 4 support the objectives of the East Ayrshire Community Plan “Improving Health” Action Plan – Aim 3 “To help people of all ages to make healthy lifestyle choices” .

## **8. CONCLUSION**

8.1 The Children and Young Person (Protection from Tobacco) Act 1991 is designed to control the sale of tobacco products to young persons. Enforcement of this Act is the responsibility of the Trading Standards Service.

8.2 The Council is required to review its enforcement policy on an annual basis.

## **9. RECOMMENDATIONS**

9.1 The Community Services Committee is invited to:-

- (i) approve the enforcement strategy set out in Section 3 of this report; and
- (ii) otherwise note the report.

William Stafford  
Executive Director of Neighbourhood Services

10 September 2004

WS/JD/JM

### **LIST OF BACKGROUND PAPERS**

1. Scottish Office Home and Health Department Circular No. 1992 (Gen) 9

Any person wishing to inspect the background papers listed above should telephone 01563 576111 and ask to speak to John Crawford, Head of Protective Services.

Implementation Officer – [john.crawford@east-ayrshire.gov.uk](mailto:john.crawford@east-ayrshire.gov.uk)