

EAST AYRSHIRE COUNCIL

COMMUNITY SERVICES COMMITTEE – 15th NOVEMBER 2000

SALE OF TOBACCO PRODUCTS TO YOUNG PERSONS

Report by Director of Community Services

1. PURPOSE OF REPORT

- 1.1 To advise the Community Services Committee of the enforcement action taken over 1999/2000 to satisfy the legal measures introduced by the Children and Young Persons (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 for 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 kept.
- 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 1999/2000 as follows:
 - 3.1.1 The Trading Standards Service carried out, as part of its normal pattern of enforcement , 506 visits on retailers to ensure compliance with the law and distribute appropriate advisory literature.
 - 3.1.2 72 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 An Operation Spotlight Initiative was carried out throughout East Ayrshire in conjunction with Strathclyde Police. Trading Standards and Police Officers jointly visited around 150 premises where it was considered more likely that under age persons would ask for cigarettes. Advice and an information leaflet was given to these retailers. At a later date suspect premises were monitored in the period before 9am and during the dinner break. The fact that these joint surveillance operations did not result in evidence of illegal sales, hopefully indicates that retailers were taking on board the advice and information given.
 - 3.1.4 No complaints about sales to young persons were 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 as much of an issue by the general public.
 - 3.1.5 Seven warning notices were issued to retailers in respect of failure to display the appropriate notice warning that it is an offence of sell tobacco products to persons under 16 years of age. Additionally, at 44 other premises, advice was given as to the requisite prominence of this statutory notice.
 - 3.1.6 Scottish Executive guidance stipulates that children should only be used in the making of test purchases as a last resort and then only on the basis of the detailed guidance provided to local authorities and that information collected using children should not be used for prosecution purposes.
 - 3.1.7 In accordance with Scottish Executive guidelines, East Ayrshire's Trading Standards Service does not involve children in the making of test purchases.

4. PROOF OF AGE CARD SCHEMES

- 4.1 As Members are aware, approval in principle has already been granted to proceed with the introduction of a proof of age card scheme, subject to the availability of resources. The cost of such a scheme, which must be regarded as making a positive contribution to enforcement activities is in the region of £20,000. The funding aspects will be raised during the forthcoming budget exercise for 2001/2002.

5. FINANCIAL IMPLICATIONS

- 5.1 The cost of employing a part-time member of staff to implement and promote the Proof of Age Card Scheme within East Ayrshire is estimated at £20,000 inclusive of salary, on-costs, administrative and travelling and subsistence costs.

6. LEGAL AUTHORITY/ IMPLICATIONS

- 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 Nil

8. CONCLUSION

- 8.1 The Children and Young Persons (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 ;
 - (ii) authorise the Director of Community Services to pursue the associated costs of implementing a Proof of Age card scheme to the budget setting process; and
 - (ii) otherwise note the content of this report.

W Stafford
Director of Community Services

26th September 2000

JD/DW

LIST OF BACKGROUND PAPERS

1. Scottish Office Home and Health Department Circular No. 1992 (Gen)9 referred to in paragraph 2.2 and 3.1.6 of the above report.

Any persons wishing to inspect background papers should contact Mr J Crawford on 576111.

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AGENDA