

UNDERAGE SALES TEST PURCHASE EXERCISE	1st August 2017
TO: ENVIRONMENTAL SERVICES COMMITTEE	
FOR INFORMATION	

Linkage to Council Strategy (2015-19)	
Strategic Theme	Resilient Healthy & Engaged Communities
Outcome	Compliance with Statutory Duty
Lead Officer	Food, Health & Safety and Consumer Protection Manager
Cost: (If applicable)	Council Officer Time (TOIL) & Agency Staff Overtime

Background

District Councils in Northern Ireland have a statutory duty to enforce the legislation relating to the sale of certain age-restricted products such as cigarettes, tobacco products and volatile substances such as butane cigarette lighter refill products.

The Children and Young Persons (Protection from Tobacco) (NI) Order 1991 and Children & Young Persons (Sale of Tobacco) Regulations (NI) 2008 make it an offence to supply any cigarettes or tobacco products to any person under the age of 18. The Cigarette Lighter Refill (Safety) Regulations 1999 make it an offence to supply any cigarette lighter refill canister containing butane or a substance with butane as a constituent part to any person under the age of 18.

For each of the above, both the sales person and the business owner can be liable for any illegal sales, even if they thought the purchase was being made on behalf of an adult, or if the person looked like they were over 18.

The Tobacco Advertising and Promotion (Display) Regulations (NI) 2012 make it an offence to display tobacco products on sale in public view in all retailers of tobacco. Where appropriate, age checks **must** be carried out before any tobacco product is shown to a customer who asks to buy or asks for information about a tobacco product. Temporary display is permitted following requests to purchase tobacco products by customers over 18; incidental displays while staff are actively assessing stock levels, restocking, undertaking staff training, cleaning, maintaining or refurbishing the storage unit or upon request by an enforcement officer.

To raise awareness of the above legislation and assess compliance by commercial premises a number of test purchases exercises were conducted in March 2017 across the Ballymoney, Limavady and Moyle legacy council areas.

Test Purchase Exercise Protocol

All test purchase exercises are carried out in accordance with Local Government Regulation (formerly LACORS) "Code of Best Practice" on test purchasing as endorsed by the Home Office. The test purchase involved sending a young person under 18 years of age into retail premises to ask for cigarettes or a cigarette lighter refill canister containing butane.

As per Council procedure at the time, all retailers selling relevant products were written to prior to the test exercise taking place reminding them of their legal responsibilities with guidance on how to prevent the underage display/sale of age restricted goods. Within the letter the retailer was also informed that a test purchase exercise was to be carried out and an indication given of the month(s) when it will take place. Note that further to a council decision on 28th February 2017 retailers will no longer be given prior notification of an upcoming test purchase.

Outcome

The test purchase exercises were carried out over three dates in March 2017. A total of 36 premises were visited with 35 tested for tobacco sales and 1 for cigarette lighter refills sales. 31 premises refused sales to the child for cigarettes and 1 refused sales of butane cigarette lighter refill to the child.

This represents an 88.57 % compliance rate by the retailers tested in relation to the selling of tobacco and a 100% compliance rate in relation to the selling of butane cigarette lighter refills to an underage person. Similar exercises have been conducted across the legacy council areas in the past with varying degrees of success but it is reassuring to note the high compliance rate on this occasion.

For the 4 illegal sales of cigarettes made to a child in all cases written warnings in line with Councils Enforcement Policy were issued to both the proprietors and the sales assistant that made the sale.

Discussion

The high compliance rate for the exercises undertaken can be attributed to the diligence shown by retailers in applying the legislation when conducting sales of age restricted products, working closely with Council officers and the ongoing commitment shown by Council in this education and enforcement programme.