

<b>UNDERAGE SALES TEST PURCHASE EXERCISES</b>	<b>5<sup>th</sup> April 2016</b>
<b>ENVIRONMENTAL SERVICES COMMITTEE</b>	
<b>FOR INFORMATION</b>	

<b>Linkage to Corporate Plan</b>	
<b>Strategic Priority</b>	Resilient Healthy & Engaged Communities
<b>Objective</b>	To advise members of the outcome of initiatives aimed at raising awareness and assessing compliance of age restricted legislation in relation to tobacco products and volatile substances.
<b>Lead Officer</b>	Bryan Edgar
<b>Cost: (If applicable)</b>	£250 excluding officer time spend and subsistence

## 1.0 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. 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 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. 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 across the Borough a number of test purchase exercises were conducted between September 2015 and February 2016.

### **1.1 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. All retailers selling relevant products are 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 said letter the retailer is also informed that a test purchase exercise will be carried out by Council and are given an indication of the month(s) when it will take place.

### **1.2 Outcome**

The test purchase exercises were carried over five dates between September 2015 and February 2016 across the four legacy Council areas. A total of 86 premises were visited with 76 tested for tobacco sales and 10 for cigarette lighter refills sales. 74 premises refused sales to the child for cigarettes and 9 refused sales of butane cigarette lighter refill to the child.

This represents a 97 % compliance rate by the retailers tested in relation to the selling of tobacco and a 90% 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 two illegal sales of cigarettes made to a child and the illegal sale of a butane cigarette lighter refill to a child, in all cases written warnings were issued to both the proprietors and the sales assistant that made the sale.

### **1.3 Discussion**

This is the first test purchase exercise that included the new legislation for the display of tobacco products. Council's Tobacco Control Officer has been working closely with retailers in the Borough since it was first introduced in March 2012 and more recently (for the smaller retailers) since April 2015 making all aware of the new legislation and its implications for them. This included personal visits, written information, guidance leaflets/booklets and prevention visits to the premises to assist retailers where necessary. Although several retailers failed with the display of tobacco legislation it was considered proper to deal with this by way of advice considering this is the first exercise of this nature.

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.

## Details of Test Purchase Exercise by Legacy Council Area

	<b>Date(s) of Exercise</b>	<b>No. of Premises Tested</b>	<b>Outcome</b>
<b>Ballymoney</b>	20 <sup>th</sup> February 2016	15 tested for tobacco	No illegal sales
<b>Coleraine</b>	26 <sup>th</sup> September 2015  28 <sup>th</sup> October 2015	31  24 tested for tobacco  7 tested for butane cigarette lighter refills	2 illegal sales for tobacco – written warnings issued to proprietors and sales assistant  1 illegal sale of a butane cigarette lighter refill – written warnings issued to proprietors and sales assistant
<b>Limavady</b>	27 <sup>th</sup> October 2015	24	No illegal sales
<b>Moyle</b>	27 <sup>th</sup> February 2016	16  13 tested for tobacco  3 tested for butane cigarette lighter refills	No illegal sales