

<b>Title of Report:</b>	<b>TOBACCO UNDERAGE SALES TEST PURCHASE EXERCISES</b>
<b>Committee Report Submitted To:</b>	<b>ENVIRONMENTAL SERVICES COMMITTEE</b>
<b>Date of Meeting:</b>	<b>10<sup>th</sup> December 2019</b>
<b>For Decision or For Information</b>	<b>FOR INFORMATION</b>

<b>Linkage to Council Strategy (2019-23)</b>	
Strategic Theme	Resilient, Healthy and Engaged communities
Outcome	Compliance with statutory duty
Lead Officer	Head of Health & Built Environment

<b>Budgetary Considerations</b>	
Cost of Proposal	Officer Time (TOIL)
Included in Current Year Estimates	Yes
Capital/Revenue	N/A
Code	N/A
Staffing Costs	N/A

<b>Screening Requirements</b>	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals		
Section 75 Screening	Screening Completed:	Yes/No N/A	Date:
	EQIA Required and Completed:	Yes/No N/A	Date:
Rural Needs Assessment (RNA)	Screening Completed	Yes/No N/A	Date:
	RNA Required and Completed:	Yes/No N/A	Date:
Data Protection Impact Assessment (DPIA)	Screening Completed:	Yes/No N/A	Date:
	DPIA Required and Completed:	Yes/No N/A	Date:

## **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 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 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 test purchase exercise was conducted in the Moyle and Coleraine council legacy areas in June and August 2019 respectively.

## **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.

As per Council policy all retailers selling relevant products are written to once per year reminding them of their legal responsibilities with guidance on how to prevent the underage display/sale of age restricted goods.

## **Outcome**

A total of 26 premises were visited in the legacy Moyle and Coleraine areas and tested for tobacco sales. 2 sales of cigarettes were made to the young person. This represents a 92% compliance rate by the retailers tested in relation to the selling of tobacco to an underage person.

Decisions on the action to be taken against a premises that fails a test purchase exercise are based on whether all reasonable precautions were taken and due diligence exercised to avoid commission of the offence and whether reasonable steps were taken to establish the individual's age.

Of the 2 retailers that failed the test purchase exercise and sold cigarettes to the young person, taking into consideration all relevant factors at each premises, 1 Fixed Penalty

Notice and a written warning were issued to the business owners and a further written warning issued to one of the sellers.

The Fixed Penalty amount is £250 which is reduced to £187.50 if paid with 14 days.

### **Discussion**

The overall compliance rate shows that the majority of retail premises are diligent in applying the legislation. This is attributable to the ongoing commitment shown by Council and staff of the Environmental Health Department in this education and enforcement programme.