



Trading Standards Age Restricted Products Enforcement Programme 2022-23

Summary

Trading Standards enforces legislation which prohibits the supply of most age restricted goods. The planned enforcement programme for underage sales in relation to tobacco sales and spray paints is required to be considered annually.

Trading Standards will continue its focus on the supply side of alcohol, tobacco and e-cigarettes by providing access to advice and education materials to Dorset businesses and combining that with test purchase exercises where intelligence is received.

In relation to other age restricted products, Trading Standards will consider enforcement action where complaints or intelligence are received.

Trading Standards will maintain strong links with all partners including Dorset Council's own Licensing and Community Safety team, Public Health Dorset and externally with Dorset Police, Her Majesty's Revenue and Customs (HMRC) and the regional collaborative company, Trading Standards South West, especially neighbouring local authorities.

While the Coronavirus affected some activities, the service was able to carry out most activities it planned to. Visits to premises to provide advice and guidance returned to normal as the year progressed and three test purchase operations were carried out.

Activities related to illicit cigarettes and tobacco are also covered in the report as it is likely that anyone prepared to sell such products is not going to take much care about who they sell them to.

Introduction

Trading Standards enforces legislation which prohibits the supply of age restricted goods such as cigarettes, alcohol, fireworks, lottery tickets, intoxicating substances (solvents), spray paints, petrol, film recordings and computer games.

The Children and Young Persons (Protection from Tobacco) Act 1991 places a duty on Dorset Council to consider at least once every twelve months, "the extent to which it is

appropriate for them to carry out, in their area, a programme of enforcement action” in relation to the sale of tobacco, cigarettes and nicotine vaping products.

In respect of spray paints the Clean Neighbourhoods and Environment Act 2005 requires the Council to consider, at least once a year, “the extent to which it is appropriate ...to have a programme of enforcement action” and how it intends to carry out such a programme.

Dorset Council, as the local weights and measures authority, is a “responsible authority” under The Licensing Act 2003. The Trading Standards service can make representations for premises’ licence applications and apply for a review of a premises’ licence in respect of the four statutory licensing objectives namely:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

Involvement is mainly in relation to sales of age restricted products to those under age when linked to anti-social behaviour, although the sale of counterfeit products or other criminality may also trigger an application.

This age restricted products enforcement contributes to the Dorset Council Plan priority of ensuring Dorset residents ‘stay safe and well’ by reducing the availability of various controlled goods at retail level. The priority of ‘strong, healthy communities’ is supported by reducing the risk of anti-social behaviour by the underage sale of alcohol and fireworks for example.

Review of activity for 2021-22

1. The effect of the pandemic

As the year progressed the effects of the pandemic were reduced and the service was able to return to something like normal activity with appropriate risk assessments in place.

2. Provide advice to business.

The service received 49 complaints and referrals about the sale of age restricted products, the largest proportion being from Dorset Police who we continue to work closely in partnership with. Many of these were responded to by joint visits with police licensing officers to assess the controls put in place by the business and to provide advice on improvements. The product breakdown was 32 about alcohol, 4 about cigarettes/ tobacco and 13 about e-cigarettes and liquids.

The information re e-cigarettes and liquids also coincided with information being received that disposable e-cigarettes are being used by school children. As a result of this, information was provided to schools about the type of products available and

requesting that they report it to us if they have an issue. Public Health Dorset are also considering what health messages should go to schools.

Advice visits were carried out in the Shaftesbury area and information was provided to vape shops and convenience stores in the Dorchester and Weymouth areas.

3. Make the best use of intelligence about illegal and illicit tobacco

Intelligence on illegal and illicit tobacco was very limited over the year. Only 8 pieces were received. All were assessed, four resulted in product being examined and none were found to be counterfeit or illegal.

Three were test purchases arranged by the South West Regional Enforcement Team's Tobacco Control Officer. As a result of these, inspections were carried out at the three premises with sniffer dogs, HMRC and Police assisting. 12820 (£2884.50) cigarette sticks and 3.65kg (£669) of hand rolling tobacco were seized. Two businesses received warnings and investigations continue into one other.

4. Use under age test purchasing to identify and deal with premises at risk of selling alcohol, tobacco and e-cigarettes to those under the age of 18 years

Following on from the information received as described in paragraph 2, separate test purchase operations were undertaken in the Dorchester and Weymouth areas for alcohol using volunteers from Dorset Police Cadets. There was one sale out of the 23 premises tested which resulted in a warning to the business.

Regarding e-cigarettes, a test purchase exercise was undertaken using a fifteen-year-old volunteer across Dorchester and Weymouth. Three of the eleven premises tested, sold. Two people received a simple caution, formally admitting the offence and one investigation is still on going.

5. Continue to work closely with partners

The service has continued to work with close links within the council, especially the regulatory teams in Community and Public Protection, including licensing and environmental health officers but also with Dorset Police.

6. Continue to identify opportunities to carry out externally funded work

HMRC provided funding to local authorities for illegal tobacco enforcement under the operation name CeCe. This was administered locally by the regional collaborative company, Trading Standards South West. This money funded the illegal tobacco test purchases and the sniffer dogs used in the follow up operation. The extra resource is welcomed because it has proved difficult to source test purchasers of the right profile to realistically test premises about which we have intelligence. This also led to more targeted use of the sniffer dogs.

Public Health England also funded some underage test purchasing of e-cigarettes and e-liquids so this has contributed to some of the activity described in paragraph 4.

7. Other products.

Trading Standards has received no reports about activity related to the sale of spray paints, fireworks, films, computer games or knives to those underage. No further issues with nitrous oxide since those from the previous year have been identified.

There has only recently been movement on the expected commencement of tightened controls of offensive weapons and corrosive substances. Draft guidance has been published and the commencement order was only made on 31 March 2022 with the provisions coming into force on 6 April 2022.

Programme of Enforcement for 2022-23

It is proposed that the overall strategy remains the same, with the provision of advice to business and the use of test purchasing to identify and deal with problem businesses or areas of concern. Where problem businesses are identified, appropriate enforcement activity including warnings, fixed penalty notices, simple cautions, licence reviews and prosecution will be used in accordance with Trading Standards' enforcement policy.

In 2012, Trading Standards requested and secured the agreement of elected members, that it could use the investigatory tactic that allows volunteers to give a false age when asked about their age during test purchase operations. This was agreed as a tactic carried over to Dorset Council in April 2019.

This tactic would only be used where there is intelligence that a specific business is selling age restricted products to children or the business is known to use tactics to identify test purchase operations. It would also only be used in relation to specific premises where it is authorised by the Service Manager for Trading Standards. Although Trading Standards has not had to use this tactic yet, Trading Standards will continue to be able to use it, should the need arise.

Tobacco and alcohol

1. Provide advice to business

Through the new Council website, written information, Trading Standards' business advice line and by visiting businesses.

2. Make the best use of intelligence about illegal and illicit tobacco

Illegal and illicit tobacco continue to undermine the Department of Health's strategy to reduce the prevalence of smoking by making available cheap tobacco. It is also highly unlikely that sellers of such products will take precaution to avoid selling their products to the young. Trading Standards will continue to collate intelligence and use a variety of enforcement methods to attempt to reduce the availability of illegal tobacco. This may include seeking the authorisation of the courts to undertake covert test purchases where products are available on-line or at private premises.

Public Health Dorset continues to part fund a regional enforcement officer post working on illegal tobacco, across many of the authorities of the Trading Standards South West group. The service will continue to engage with this regional work.

Should the national operation (Operation CeCe, funded by HMRC) continue, the service will continue to engage with it as appropriate for Dorset Councils' residents and businesses.

3. Use underage test purchasing to identify and deal with premises at risk of selling alcohol, tobacco and e-cigarettes to those under the age of 18 years

The service will use intelligence and liaise with licensing and community safety colleagues and Dorset Police to decide on the areas where work shall be undertaken. We will undertake more work on e-cigarettes and e-liquids.

4. Continue to work closely with partners

Trading Standards will continue to work with partners including Dorset Police, licensing and community safety colleagues, Public Health Dorset and the regional partnership, Trading Standards South West. All partners continue to provide useful intelligence about the availability of alcohol and tobacco to young people and Dorset Police assist Trading Standards with alcohol test purchase operations.

5. Continue to identify opportunities to carry out externally funded work

The service will take up opportunities where funding is available from appropriate organisations, such as Public Health England, for work that fits in with the priorities identified in this report. HMRC have recently confirmed the continuation of Operation CeCe for the next three years 2022-25.

6. Other Products

The service will continue to deal with other age restricted products where complaints or other intelligence is received.

7. New legislation and developments

a) Implementation of the parts of the Offensive Weapons Act 2019 relating to the supply of weapons including knives and bringing in controls on corrosive substances came into force of 6 April 2022 .

The Act introduces prohibitions on the sale and delivery of corrosive products to under 18s and delivery to residential addresses. It also strengthens existing legislation to prohibit the delivery of bladed articles being sent to residential addresses after they are bought online. The seller must have arrangements in place with the delivery company to ensure that the product would not be delivered into the hands of a person under 18. It confers powers on Trading Standards to enforce new offences under the Act and existing offences relating to the sale, delivery etc of knives, corrosive products and other offensive weapons. The police may also enforce these laws.

Amongst under eighteens, knife crime and crime involving the use of corrosive substances as a weapon are extremely low in the Dorset Council area. The service will ensure appropriate businesses are advised and keep in review whether further work is needed in this area.

b) The Department of Health and Social Care (DHSC) is still working on a new tobacco control plan based on evidence and priority areas. The service will assess any impact on the enforcement of tobacco control measures.

c) There will be a post implementation reviews of Tobacco and Related Products Regulations 2016 and Standardised Packaging of Tobacco Products 2015 by the DHSC. The former includes the law relating to the age restriction on the sale of tobacco products such as e-liquids, the maximum nicotine strength of such products and their maximum pack size. The Government has said that the forthcoming Tobacco Control Plan will take into account the conclusions of the review. No imminent changes are anticipated.