

Report

Report to:	Community and Enterprise Resources Committee
Date of Meeting:	17 September 2024
Report by:	Executive Director (Community and Enterprise Resources)

Subject:	Sale of Nicotine Vapour Products Enforcement
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1. Purpose of Report

1.1. The purpose of the report is to:-

- ◆ update the Committee on the programme of enforcement undertaken by the Consumer and Trading Standards service in relation to the sale of nicotine vapour products

2. Recommendation(s)

2.1. The Committee is asked to approve the following recommendation(s):-

- (1) to note that enforcement activity by Consumer and Trading Standards continues to ensure businesses comply with the requirements of the Tobacco and Primary Medical Services (Scotland) Act 2010 as amended in relation to age restricted sales.

3. Background

3.1. Consumer and Trading Standards deliver the Council's statutory duty to enforce the provisions of Tobacco and Primary Medical Services (Scotland) Act 2010 and carry out a programme of enforcement in relation to the age restriction requirements contained in the Act.

3.2. The act creates a criminal offence for a business to sell vapes to anyone under the age of 18 years. If a business sells a vape to a child, then they can be issued with a £200 fixed penalty notice which is discounted to £150 if paid within 14 days of issue.

3.3. Consumer and Trading Standards noted a significant increase in the number of complaints from members of the public, head teachers, elected members and Police Scotland relating to the sale of single use vapes to children in 2022/2023. The rapid increase in the number of complaints received, warranted including test purchase exercises in the programme of enforcement in 2023/2024.

4. Programme of Enforcement 2023/2024

4.1. Test purchasing exercises have been used for a number of years in relation to the sale of fireworks. This involves officers visiting premises with young volunteers who under supervision attempt to purchase the age restricted product. Responsible retailers should ask for proof of age and not make a sale to the young volunteer. This test planning model has been extended to cover the sale of vapes.

- 4.2. During 2023/2024, officers and young volunteers visited 125 premises across South Lanarkshire to test if the retailers would comply with the age restrictions applying to the sale of vapes. The sale of vapes to the volunteers occurred on 44 occasions.
- 4.3. The retailers who made the underage sales were issued with a fixed penalty notice. The programme of enforcement found a 33% failure rate over the course of 2023/2024. Officers found at 11 premises, repeat underage sales took place, despite the retailer being issued with a fixed penalty notice earlier in the year.
- 4.4. The purpose of enforcement action is to verify compliance and encourage future compliance. The level of repeat sale of vapes to underage volunteers last year was very disappointing and would appear to reflect a disregard for the legislation by some retailers.
- 4.5. Consumer and Trading Standards will therefore continue to undertake test purchase exercises in the programme of enforcement in 2024/2025. If the programme of enforcement in 2024/2025 finds repeat offences are still occurring, then consideration will be given to escalating the enforcement action, including submitting a report to the Procurator Fiscal.
- 4.6. Many retailers hold a range of licences in relation to the goods they sell and Environmental Services are consulted on licence applications. If a business is found to persistently sell age restricted products to underage age customers, this non-compliance will be reported to the Licensing Section to consider how the continued non-compliance should be viewed in relation to the retailer's suitability to hold the licence.

5. Employee Implications

- 5.1. There are no employee implications associated with this report.

6. Financial Implications

- 6.1. There are no financial implications associated with this report.

7. Climate Change, Sustainability and Environmental Implications

- 7.1. The recycling of vapes is very difficult and therefore irresponsible disposal means they can have a detrimental impact on the local environment.
- 7.2. Scottish Government is proposing to ban the sale of single use vapes due to their impact on the environment and as they are difficult to recycle. The Scottish Government estimates 2.7 million vapes were littered last year.
- 7.3. All vapes bought through test-purchasing are disposed of through a specialist company.

8. Other Implications

- 8.1. There are no other implications associated with this report.

9. Equality Impact Assessment and Consultation Arrangements

- 9.1. This report does not introduce a new policy, function or strategy nor recommend a change to an existing policy, function or strategy and therefore, no impact assessment is required. There is also no requirement to undertake any consultation in terms of the information contained in this report.

David Booth
Executive Director (Community and Enterprise Resources)

23 August 2024

Link(s) to Council Values/Priorities/Outcomes

Values

- ◆ Focused on people and their needs
- ◆ Working with and respecting others
- ◆ Accountable, effective, efficient and transparent

Priorities

- ◆ We will work to put people first and reduce inequality
- ◆ We will work towards a sustainable future in sustainable places

Outcomes

- ◆ Our children and young people thrive
- ◆ Thriving business, fair jobs and vibrant town centres
- ◆ People live the healthiest lives possible

Previous References

- ◆ None

List of Background Papers

- ◆ None

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

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