



Norfolk County Council

Community & Environmental Services

Trading Standards Service Annex 1: Enforcement of Age Restricted Sales and Illegal Tobacco Products Plan



A review of our activities in 2022-23 and a strategy for 2023-24 to deter the sale of age restricted products to young people and the sale of illegal tobacco products in Norfolk, with the intention of improving community safety and public health



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Context

The Children and Young Persons' (Protection from Tobacco) Act 1991 requires a Local Authority to review its enforcement activity relating to the supply of cigarettes and tobacco to persons under the age of 18 on an annual basis. This legislation specifically requires an authority to consider "the extent to which it is appropriate for them to carry out, in their area, a programme of enforcement action". There are similar duties arising from Section 54A of the Anti-Social Behaviour Act 2003. The Trading Standards Service has a responsibility to enforce the compulsory health warning requirements on tobacco products and the age restrictions and composition legal requirements applicable to e-cigarette liquids which contain nicotine.

This Plan fulfils our obligation to review our programme of enforcement action on the above-mentioned specific matters. It also outlines the broader extent of our work in this area, to improve community safety and public health.

The supply of illegal tobacco products continues to be a problem in Norfolk. There is continued evidence of supply spreading to smaller market towns in addition to the larger urban areas of Norwich, King's Lynn, and Great Yarmouth. These products fail to carry the health warnings of legitimate tobacco products and are often counterfeits of established brands. Their unknown composition and unregulated production present an additional health hazard to smoking, already the major cause of death in the UK. Illegal cigarettes do not have the self-extinguishing qualities of legal cigarettes and pose a greater fire risk. The Service receives intelligence that sales of illegal cigarettes are being made to young people. The relative cheapness of these products makes them attractive to buyers; including those under 18 years old, and undermines smokers' attempts to quit. This plan integrates the Trading Standards Service actions to tackle these illegal products along with the obligations outlined above.

During 2022/23 the Service saw a vast increase in the number of non-compliant matters reported to us regarding Nicotine Inhalation Products, more commonly known as "vapes". Such matters related to both the compliance of the vape items themselves; in terms of the allowable liquid capacity in the vape, the allowable nicotine strength of such liquid and the required labelling of such products, and the illegal supply of vape products to those under the legal age for supply (18 years). Small disposable vapes with child appealing packaging and/or flavours are a particular issue. Non-compliance is a national issue as [reflected in the Local Government Association \(LGA\)'s article of 11 February 2023](#).

Background

Trading Standards community safeguarding activities are intelligence-led and focus on both national and local priorities. Improving community safety and public health by tackling illegal and age restricted products is a key priority for the Service.

Trading Standards recognises that effective enforcement of legislation to prevent the sale of age restricted goods requires a multi-agency approach and seeks to work in partnership with a range of agencies and stakeholders to ensure accurate identification of priority and high-risk areas, share best practice and engage in collaborative work, such as joint operations and licence reviews.

Trading Standards aligns its service delivery, wherever possible, to support the priorities of other Council services. In order to align its community safeguarding activities with Public

Health priorities, the Service will focus activities on:

- Preventing the sale of alcohol to young people
- Taking action through alcohol licensing requirements
- Preventing the sale of cigarettes, e-cigarette liquids and tobacco to young people
- Disrupting the supply of illegal tobacco products
- Working with the Norfolk Tobacco Alliance, and
- Working with Community Alcohol Partnerships (CAPs)

Service delivery will take place across the whole of the county; based on the intelligence derived from information received about the sale of age restricted products and illegal tobacco products.

Review of 2022-23

Unlike the previous two years, the impact of Covid 19 on the delivery of work was negligible during the year.

The amount of intelligence received regarding premises selling age restricted products to underage persons continues to rise with the number of reports received once again increasing significantly from that of the previous (2021-22) year. This includes complaints made to the police and district council licensing departments in the County.

Alcohol

In the first three quarters of the 2022-23 service year, intelligence was received about 26 premises selling alcohol to underage persons (during the same period in 2021-22 it was 15). All premises were advised by either remote means, or by a visit, on their responsibilities in relation to underage sales. Some of these premises had secondary advice following the receipt of further intelligence about underage sales still taking place.

Where further intelligence was received about continuing underage sales at premises, following staged advice, such premises were identified to be subject to a test purchase exercise (see test purchasing below).

The Service continues to contribute to the Community Alcohol Partnerships (CAP) in Norfolk including the newly formed Sheringham CAP which was launched in January 2023.

Of the 26 premises that were subject to reports of underage alcohol sales, 3 were in an area covered by a CAP.

The Trading Standards Service is a Responsible Authority in licensing matters. Trading Standards continues to work closely with the other Responsible Authorities, in particular, Norfolk Constabulary Licensing Team, in order to ensure the licensing objectives are upheld in Norfolk. Where a business is found to be selling alcohol to underage persons, Trading Standards, in conjunction with Norfolk Constabulary, will apply for a review of the premises licence.

During the 2022-23 period we undertook the following activities in relation to alcohol licences:

- In conjunction with Norfolk Police, we objected to an alcohol licence application from a premises, where the new Company director had links to illegal tobacco. Our objections were successful with the licence being refused at a subsequent licence hearing at the district council.
- In conjunction with Norfolk Police, we objected to an alcohol licence application from a newly opened premises. Soon after opening we received reports against the premises about the sale of illegal tobacco, illegal vapes and underage sales. A joint visit with Norfolk Police was carried out at the premises with illegal cigarettes, illegal hand rolling tobacco and illegal vapes being seized. A short period after the first seizure further reports of sales of illegal tobacco products and underage sales of such products were received. A further joint visit with Norfolk Police was again carried out to the premises. Again, more illegal cigarettes and illegal hand rolling tobacco was seized. At a subsequent licencing hearing the district council refused the alcohol licence application from the premises.
- We asked for a review of an alcohol licence granted to a premises, following ongoing concerns about underage sales. We had received a number of complaints about underage sales and had conducted an advice visit at the premises in question. A further report of underage sales was received within a few hours of our visit. A follow-on test purchase exercise was carried out at the premises, utilising an underage volunteer, which resulted in a sale of alcohol. At a subsequent licence review hearing the alcohol licence belonging to the premises was revoked by the district council licencing committee. This decision is now subject to an appeal, by the premises, to the Magistrates Court. This Service will make further representations at that hearing.

Tobacco

In the first three quarters of the 2022-2023 service year, we received intelligence about 9 premises selling cigarettes to persons aged under 18 (during the same period in 2021-22 it was 5). The premises were given advice by remote means.

The Government's Tobacco Control Strategy is key to the Trading Standards Service's response in enforcing legislation in relation to both the supply of illegal tobacco products and underage sales, as well as ensuring that legal tobacco products are stored and labelled as required by law.

In line with our staged enforcement approach, we have undertaken a number of notable seizures of illegal cigarettes and hand rolling tobacco (HRT) from premises during the 2022/23 service year:

- Great Yarmouth 3,900 cigarettes, 1kg HRT
- Swaffham 2,000 cigarettes, 2.85kg HRT
- Watton 31,000 cigarettes
- Great Yarmouth (multiple premises) 22,500 cigarettes, 5.5kg HRT.

The Service has continued its work with the landlords of business premises where suppliers of illegal tobacco are tenants. In Norwich the landlord of a problem premises is now proposing to change its use, thus ceasing the supply of illegal tobacco by the tenants.

Nicotine inhalation products

Nicotine inhalation products are commonly known as vapes. Vape products are subject to the same age restrictions as cigarettes and tobacco, in that buyers must be at least 18 years old. Vape products are also subject to strict controls regarding the amount of nicotine liquid they contain and the strength of that liquid.

Vapes were originally introduced as a smoking cessation device and remain an effective tool in achieving such a goal. The Khan Review “Making Smoking Obsolete” (published in June 2022) recognises the effectiveness of vapes and recommends their use in smoking cessation programmes.

The use of such products also forms part of Norfolk County Council Public Health’s Tobacco Control and Stop Smoking plan. During the 2022-23 year, as part of its wider collaborative work with the Council’s Public Health service in this area, the Service has been developing vetting procedures, for those businesses Public Health engage with to supply vaping products as a cessation tool. In doing so we can ensure that any vapes provided for smoking cessation purposes are compliant with the legislation.

Whilst vapes remain an effective smoking cessation device, during the 2022/23 period, the Service has seen an exponential growth in the receipt of reports of both underage sales of vapes and sales of illegal vapes. Very often the two issues go together, with those business who are unconcerned with the illegality of the vape products they supply also unconcerned with any age restriction that should be applied (as is also the case with illegal tobacco). At the end of the third quarter of 2022/23 53 premises involved in the supply of vapes have been the subject of such reports (in 2021/22 there were 8 premises). Norfolk has not been alone in experiencing such issues. Both the Local Government Association (LGA) and the Chartered Trading Standards institute (CTSI) have issued press releases in the last quarter of 2023 highlighting issues surrounding vapes, including the supply of vapes to those underage and the supply of illegal vapes.

This Service has continued its staged enforcement approach to tackling such matters with the provision of early intervention advice in the first instance. As part of that staged approach the Service has undertaken a number of notable seizures of illegal vapes during the 2022/23 year:

- Great Yarmouth 188 vapes
- Great Yarmouth 133 vapes
- Norwich 308 vapes
- Norwich 387 vapes
- Norwich 177 vapes
- Kings Lynn 1,267 vapes
- Kings Lynn 1,136 vapes
- Kings Lynn 449 vapes
- Swaffham 98 vapes

During the above seizures, a number of the premises were also found to have illegal tobacco products.

Knives

Trading Standards received no complaints about premises in Norfolk selling knives to persons under 18 during the service year. We worked with Norfolk Constabulary as part of the national campaign, Operation Sceptre, in May 2022, conducting 14 joint visits to ensure retailers are fully aware of their legal responsibilities on preventing sales to underage youngsters. We were unable to participate in a second tranche of Op Sceptre visits planned for November 2022 due to the unprecedented demand on the Service caused by Avian Influenza outbreak response work.

Fireworks

Norfolk Constabulary takes the lead on sales of fireworks to under-18s, and we will support. No intelligence has been received about underage sales of fireworks this service year.

Other Products

Intelligence regarding the underage sales of other products is rare and during the 2022/23 service year no reports regarding other products were received.

Looking ahead to 2023-2024

Enforcement Activities (including test purchasing programmes)

Trading Standards will continue to focus its resources on alcohol, tobacco, and nicotine inhalation products (NIPs). We will also respond to intelligence relating to other products, where there is an identified need.

A staged approach is adopted with due regard to the Community and Environmental Services (CES) Compliance and Enforcement Policy. In respect of age restricted sales this includes:

- The provision and publicity of advice and support materials
- The delivery of advice and help to new retailers of age restricted products
- The investigation of complaints together with the delivery of advice and assistance to prevent the recurrence of underage sales
- Targeted test purchasing utilising young people and where appropriate, underage volunteers
- Recommendation to adopt a "Challenge 25" type policy
- Working with and supporting national or regional initiatives
- Multiagency/community group/industry partnership working including Community Alcohol Partnerships (CAPs), and
- Encouraging reporting of sales of illegal tobacco and vapes and sales of age restricted products to underage people and improving the flow of intelligence in this regard.

Enforcement Approach

Where intelligence is received about the sale of age restricted goods to underage buyers, the Service will provide advice to the business in question, which may be provided by remote means. However, if the intelligence also indicates the supply of illegal goods, such as illegal tobacco or vapes, then the Service will undertake an intervention visit at the outset to address any product issues and, if necessary, seize any non-compliant stock.

This direct early intervention approach to addressing product issues was brought in by the Service during 2022/23 in response to the increasing prevalence of non-compliant vapes.

Following the provision of advice and support, the Service will test the business' underage sales policies. Where information continues to indicate that underage sales are taking place, test purchasing by underage volunteers will be undertaken with support from Norfolk Police.

We will also continue to provide officers and utilise Trading Standards' young volunteers to support Norfolk Police, in relation to their lead role for underage sales of alcohol at 'on licence' premises.

The recruitment, selection, and utilisation of young persons for test purchasing will be in accordance with the protocols, systematic procedures and risk assessments adopted and developed in line with the Home Office and other guidelines. These protocols and procedures are maintained in the Service's Policies and Guidance system and are thus subject to rigorous internal audit. All officers involved in the test purchase programme have been subject to police vetting procedures.

Where Trading Standards carry out test purchasing utilising underage volunteers, this is carried out in accordance with the Regulation of Investigatory Powers Act 2000 (RIPA). Generally, test purchasing using underage volunteers is only used where other methods of preventing a business from selling age restricted products to underage persons have failed.

Enforcement activity will also be carried out at premises where intelligence is received regarding the sale of illegal tobacco products and/or illegal vapes. This activity will include visits with specialist tobacco detection dogs to find concealed illegal tobacco. Formal action will be taken against businesses where it is found, and where it is appropriate to do so in accordance with the Community and Environmental Services (CES) Compliance and Enforcement Policy.

The Service, working with our police partners, will take a robust stand in response to anyone found to be purchasing alcohol or tobacco products on behalf of a young person.

We will, in conjunction with Norfolk County Council Public Health and with other agencies, as appropriate, promote ways of reporting sales of illegal tobacco and sales of age restricted products to young persons.

Whilst the Service will continue to undertake enforcement action against those businesses who perpetrate underage sales of illegal tobacco and/or illegal vapes, by seizing such products and pursuing the criminal prosecution of those involved, it is becoming ever more apparent that such action is effective only in temporarily disrupting rather than stopping such criminal behaviour, where those associated with the premises in question are determined to continue. It is now not uncommon for the service to undertake successive seizures at certain business premises, particularly those suspected of being associated with organised criminal gangs. It is often the case that the Service, having undertaken a seizure, will shortly afterwards receive intelligence that the premises has restocked with illegal product soon after. As a result, during the end of the 2022/23 service year, the Service began actively engaging with Norfolk Police and certain local district councils to develop an enforcement approach to tackle such premises by obtaining a closure order

from the Courts under the Anti-social Behaviour, Crime and Policing Act 2014. Under the 2014 Act the Police and district councils can apply for such orders, which can mandate the closure of premises for 3 months. The continued development and implementation of this enforcement approach will be a key priority for the Service during 2023-24 and will be pivotal to the success of tackling those premises that persist in the supply of illegal tobacco and vapes.

Tobacco and Vapes

During 2023-2024 it will remain a priority to gather and then act upon any intelligence received, including that received from our partners. Trading Standards is an active member of the Norfolk Tobacco Alliance and will be striving to help achieve CLear (Challenge, Leadership and Results) status in tobacco control for Local Government for Norfolk County Council.

In line with our Compliance and Enforcement Policy we will continue to provide an effective response to secure compliance of and/or disrupt Norfolk businesses engaged in supplying illegal tobacco products and vapes, including:

- Seizure and destruction of illegal tobacco and vape products
- Seizure of criminal assets (including vehicles & cash)
- In conjunction with Norfolk Police and respective district councils, effective use of closure orders on problem tobacco and vape premises
- Institution of proceedings with a view to prosecution and the issue of simple cautions
- Preventing the issue of and securing the revocation of Premises Licences
- Carrying out safety testing, where appropriate, on illegal cigarettes, and
- Working with the landlords of properties used for the supply or storage of illegal tobacco and vapes with a view to securing the eviction of tenants who continue to break the law. Where appropriate legal proceedings will be instituted where landlords fail to co-operate.

Trading Standards, with partners, will carry out the highlighted activities at retail level. In parts of Norfolk, currently Great Yarmouth and Kings Lynn, criminal organisations are thought to control the illegal tobacco supply. It will be necessary to work with enforcement partners to effectively tackle these groups.

Operation CeCe is a joint His Majesty's Revenue and Customs (HMRC) and National Trading Standards (NTS) operation. Funding is provided by HMRC to NTS to carry out visits at a retail level to disrupt the supply of illegal tobacco. During the 2023/24 service year the Service will participate in Operation CeCe and undertake a number of visits in Norfolk, as part of the funded bid coordinated by our regional Trading Standards Association, East of England Trading Standards Authorities (EETSA).

Knives

Norfolk Constabulary take the enforcement lead on the underage sale of such items. Trading Standards will assist Norfolk Constabulary with Operation Sceptre, the national initiative to reduce knife crime; by carrying out joint advice visits to knife retailers.

During the 2022/23 service year the enactment of the Offensive Weapons Act 2019 gave Trading Standards a strengthened enforcement role with regard to online sales of bladed items and the prohibition of their delivery to persons under 18 years of age. The Service did not receive any reports of non-compliance during the 2022/23 year. The Service will adopt a staged enforcement approach to addressing any matters during 2023-24.

Cosmetic Fillers (including Botox)

The Botulinum Toxin and Cosmetic Fillers (Children) Act 2021 prohibits specific cosmetic treatments on children and the offer of such treatments. Trading Standards and the police are responsible for enforcing the legal requirements with businesses and practitioners operating in their locality.

During the year we will undertake a focused programme of engagement and advice, to gauge and highlight the requirements of the 2021 Act, with those business premises subject to the legislation.

Corrosive Products

The Offensive Weapons Act 2019 creates offences of supplying a corrosive product to a person under 18 years of age whether in person or by remote means and of delivering a corrosive product to an underage youngster. The Service did not receive any reports of non-compliance during the 2022/23 year. The Service will adopt a staged enforcement approach to addressing any matters during 2023-24.

Alcohol & anti-social behaviour

The link between anti-social behaviour and the consumption of alcohol and substance abuse is established. The strategy of preventing the upstream supply of a number of restricted products to underage persons and thus reducing the level of anti-social behaviour associated with the use of these products will continue to be supported.

This plan will contribute to community objectives and those arising from Government strategy for community safety and public health. Alcohol and associated anti-social behaviour will continue to be a particular focus. We will continue to support the Community Alcohol Partnerships (CAPs) in Norfolk.

Proof of Age Schemes

The Trading Standards Service does not promote any specific proof of age scheme but supports those schemes that conform to the National Proof of Age Standards Scheme (PASS) criteria. Many retailers have adopted the "Challenge 25" policies in relation to all age restricted products.

Trading Standards will continue to encourage all businesses involved in the sale of any age restricted products to adopt a policy which achieves the aims of "Challenge 25".

Our 'Minor Sales Major Consequences' pack includes a section on adopting a "Challenge 25" type policy. The Trading Standards Service will also encourage and promote the use of a 'Refusals Log' by traders to provide evidence that proof of age is being sought and sales refused in appropriate circumstances.