

ANGUS COUNCIL**COMMUNITIES COMMITTEE – 16 APRIL 2019****ENFORCEMENT ACTION –TRADING STANDARDS AGE RESTRICTED SALES****1. INTRODUCTION**

This schedule provides information on the enforcement of Tobacco control legislation by Angus Trading Standards Service in relation to the protection of young persons under the age of 18 years from purchasing tobacco and/or Nicotine Vapour Products.

2. BACKGROUND

2.1 From 1 of April 2011 there became a statutory duty under S26 of the Tobacco and Primary Medical Services Act 2010 for each Local Authority in Scotland to carry out a programme of Enforcement. The aim of the programme is to reduce the access to tobacco by young persons under the age of 18 years.

2.2 In addition to this, in 2017 new legislation on the sale of tobacco and for the first time Nicotine Vapour Products (E – Cigarettes) came into force.

NICOTINE VAPOUR PRODUCT – Covers the device or any other part of a device used to enable the inhalation of nicotine containing vapour (E Liquid) or any kind of device that resembles it. This implemented substantial changes to the landscape of tobacco control in Scotland.

The new provisions include:

- The compulsory registration scheme for Tobacco retailers to be extended to Nicotine Vapour Product retailers.
- Creating an offence to sell Nicotine Vapour Products to under 18 year olds.
- Creating an offence for 18 years and over purchasing Nicotine Vapour Products on behalf of those under 18 years.
- All retailers who sell tobacco and/or Nicotine Vapour Products must have a written age verification policy (challenge 25) and keep records of training, refused sales.
- Nicotine Vapour Products – E liquids to include an information leaflet and carry a health warning on the front and back of the box that covers 30% of the area.
- Retailers that sell tobacco/Nicotine Vapour Products to persons under 18 years can be issued with a fixed penalty notice or reported to the Procurator Fiscal.
- Those retailers who persistently offend can be subject to a banning order preventing the retailer from selling tobacco and/or Nicotine Vapour Products.

2.3 The cost to Scotland as a result of tobacco use is significant in terms of premature deaths, illness, hospital care and lost productivity and the unknown long term health effects of using Nicotine Vapour Products cannot be ignored.

2.4 Scotland's Tobacco strategy published in June 2018 sets out the Scottish Governments plan for the next five years to guide young people on their journey to become Scotland's Tobacco free generation by 2034. The key elements are Prevention, Protection and Cessation. Scottish Government rely on Trading Standards Services to help deliver change and improvement to tobacco control by discouraging underage sales of tobacco and/or Nicotine Vapour Products through inspections, test purchasing, investigate illicit tobacco trading to young children in particular. This helps to drive down the numbers of children who take up smoking and or vaping in Angus/Scotland and contribute to the actions to be delivered through the tobacco strategy.

3. CURRENT POSITION

End of year position 2018/19

3.1 In line with the Society of Chief Officers for Trading Standards Scotland (SCOTTS) and Scottish Government's enforcement initiative programme it is agreed that during the financial year 2018/19 Angus Council Trading Standards would:

- Carry out Advisory visits to 20% of Angus retailers that sell tobacco and 20% of retailers that sell Nicotine Vapour products.
- Carry out test purchasing of 10% of the retailers who sell tobacco and 10% of retailers who sold Nicotine Vapour Products.
- Ensure all known retailers in Angus were registered to sell tobacco and/or Nicotine vapour products.
- Continue working in close partnership with the Police and other agencies within schools to combine resources to deliver the Prevention, Protection and cessation message to children of school age.

3.2 Advisory visits have been undertaken at 50% of the known 166 Angus tobacco retailers and 88% of the 75 known Angus Nicotine Vapour Product retailers during the financial year 2018/19 meeting the targets set for financial year 2018/19.

3.3 Two test purchasing operations were undertaken. One in last quarter 2018 and one in the first quarter 2019. In total 64 retailers in Angus were subject to test purchasing utilising volunteers who were under the age of 18 years but authorised to purchase the age restricted products under the necessary legislation, policies and procedures.

3.4 TABLE 1: Status of Test Purchasing targets for period 1/4/18 to the 31st March 2019.

Age Restricted product	Number of test purchases	Passed purchase test	Failed purchase test	Number of warning letters for 1 ST failed test purchase	Number of fixed penalty notices issued
Tobacco 166 premises	46	34	12 (26 %)	12	0
Nicotine Vapour products 75 premises	18	13	5 (27%)	4	0
Totals 241 premises	64	47	17 (26%)	16	1

3.5 Work continues with the partner agencies with an educational input in relation to age restricted sales form Trading Standards at an Angus High School in partnership with the Police and Ambulance service to take place in late March 2019.

3.6 All known tobacco and/or nicotine vapour product retailers in Angus have been contacted and have registered to sell tobacco and/or Nicotine vapour products.

3.7 Table 1 shows that during the financial year 2018/19 that there was 26% fail rate of the retailers who were test purchased and sold tobacco and 27% fail rate for retailers who were test purchased and sold a Nicotine vapour product to a person who was under 18 years. One premises was issued with a fixed penalty notice. Test purchasing will continue to be carried out and the retailers who continue to fail test purchasing will be issued with fixed penalty notices and ultimately may be issued with a Banning Order preventing them from making further sales.

4. FINANCIAL IMPLICATIONS

4.1 There are no financial implications arising from this report.

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