



# Norfolk County Council

## Community & Environmental Services

### Trading Standards Service

Enforcement of Age Restricted Sales  
and Illegal Tobacco Plan 2019-2020



A strategy to deter the sale of age restricted products to young people and the sale of illegal tobacco 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. There are similar duties arising from Section 54A of the Anti-Social Behaviour Act 2003. There are responsibilities on Trading Standards to enforce the compulsory health warning requirements on tobacco products and to enforce the age restrictions and legal composition requirements applicable to e-cigarette liquids which contain nicotine. This plan fulfils these obligations, as part of the overall work of Trading Standards to improve community safety and public health.

Illegal tobacco products are continuing to be a problem in Norfolk. These products fail to carry the health warnings of legitimate tobacco products and are often counterfeits of established brands. Their unknown composition presents an additional health hazard to smoking, already the major cause of death in the UK. 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 underage buyers and undermines smokers' attempts to quit. This plan integrates the Trading Standards service actions to tackle these products along with the obligations outlined above.

## **Background**

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

A range of legislation supports this work, setting out controls for the following products:

- Alcohol
- Cigarettes and tobacco products, including electronic cigarette liquids
- Fireworks
- Video, DVD, Blu-ray & gaming products
- Aerosols, petroleum spirit and other intoxicating substances (butane/solvents)
- Lottery and scratch cards
- Knives, blades and crossbows

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 (e.g. 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 safety 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
- Working with Community Alcohol Partnerships (CAPs).

Public Health has again allocated £47,000 to the Trading Standards service to support

delivery of these actions in the 2019-2020 financial year.

Service delivery will take place across the whole of the county based on the intelligence derived from information about the sale of age restricted products and illegal tobacco products. The number of pieces of intelligence received regarding premises selling age restricted products to underage persons has remained low. This includes complaints made to the police and licensing departments of the district councils in the county.

A scaled approach is adopted with due regard to the Community and Environmental Services 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

Where Trading Standards conducts test purchasing utilising underage volunteers, this is carried out in accordance with the Regulation of Investigatory Powers Act 2000 (RIPA). Generally, test purchasing utilising underage volunteers is only used where other methods of preventing a business from selling age restricted products to underage persons have failed. In addition, in certain circumstances, underage volunteers are authorised to lie about their age when carrying out test purchasing operations to ensure the test of the business' age restricted sales procedures reflects real life.

## **Alcohol**

Based on Public Health figures of hospital admissions of persons under 18 for alcohol related conditions, the top three areas for underage alcohol consumption in Norfolk are:

- Great Yarmouth (higher than England & East of England average)
- Broadland (higher than East of England average)
- Norwich (higher than East of England average).

In the first three quarters of the 2018-2019 service year, intelligence was received about 10 businesses selling alcohol to underage persons. All premises were visited and advised on their responsibilities in relation to underage sales. Six premises were tested with young persons aged 15 and 16. Four of the businesses requested identification and no sale was made. Two of the businesses sold alcohol to the underage volunteers.

A business which sells alcohol to underage purchasers twice in three months is deemed to be 'persistently selling alcohol to under 18s'. All premises found to be selling alcohol to underage persons will be retested before the end of 3 months following the date of the first sale.

The two businesses that sold alcohol to the underage volunteers were then retested following further advice and neither business sold alcohol on the second occasion. The businesses received a written warning in respect of the first sale of alcohol.

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.

The Community Alcohol Partnership (CAP) launched in Great Yarmouth continues to take a multi-agency/organisation approach to reducing underage access to alcohol. The partnership includes the Police, Youth Services, the Matthew Project, schools, and retailers. The partnership has proved to be successful in reducing the prevalence of underage and street drinking. Alcohol users receive support from local agencies.

Unfortunately, in the first three quarters of the 2018-2019 service year, three out of the 10 premises, about which complaints were received about underage sales of alcohol, were in the CAP area; so further work needs to be carried out with retailers. The Service will continue to support this initiative during 2019/20 to ensure its continued success. Discussions are currently in place to extend the scope of the CAP to include Gorleston. Part of the CAP initiative is that retailers will implement a Challenge 25 policy, and this is tested utilising volunteers aged between 18 and 20.

### **Tobacco Control**

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 and underage sales. During 2019/20 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 specifically for Norfolk County Council.

Smoking remains the single greatest cause of premature death and disease in Norfolk and the UK. Smoking is an addiction which is still taken up by a large number of young people. Two thirds of smokers start before the age of 18. It is of concern that the illegal trade in tobacco makes cheap, poor quality tobacco available to many young people. In addition, it is known that the illegal tobacco trade funds the activities of organised criminal gangs.

11.4% of young people aged 15 years currently smoke in Norfolk. This is higher than the England average (8.2%) and the East of England average (8.9%). Public Health Tobacco Control Strategy aims to reduce this percentage to 5% by 2020 and Trading Standards has an important role to play in this reduction.

In the first three quarters of the 2018-2019 service year, the Service received five complaints about premises selling cigarettes or hand rolling tobacco to persons aged under 18 (excluding those premises selling illegal tobacco products). All businesses were visited and offered advice.

Trading Standards Officers have the power to advise businesses and enforce legislation in respect of age-restricted goods and illegal tobacco and therefore have a vitally important role to play in supporting health improvement by reducing access to these products. We recognise that the most effective way of doing this is by working in partnership with a range of agencies and stakeholders, including, to a limited extent, the tobacco industry. Our approach in doing so relies on intelligence, such that we take appropriate action against suppliers of a range of illegal/counterfeit products and ensures that we always limit our engagement with the tobacco industry to the purposes of enforcement of the relevant legislation.

Illegal tobacco continues to be an area of great concern; not only in terms of the associated (additional) health risks but also due to the potential for extending illegal sales of tobacco products to under 18's. Illegal tobacco is being sold by unscrupulous businesses from under the counter in most cases. It follows that this makes it more accessible to young people as it is more affordable (for example, £4-5 for a pouch of hand rolling tobacco as opposed to £17 or £2.50 for a pack of cigarettes instead of £8+).

In addition to counterfeit tobacco, there is an increasing amount of illegally imported tobacco which bears only foreign or no health labelling. Not only is this tobacco being sold without UK duty being paid, but the mandatory health risks labelling on the packaging is missing. Young people having ready access to illegal tobacco poses a significant problem in Norfolk, particularly in Great Yarmouth.

Trading Standards has instigated a number of unannounced inspections of retailers where intelligence has shown that illegal tobacco is being sold. The amount of illegal tobacco products seized from retail premises in the first three quarters of the 2018-2019 service year is over 1.2 million illegal cigarettes and 105kg of hand rolling tobacco. The Service has also seized two vehicles and approximately £48,000 in cash.

In addition, Trading Standards executed a warrant at a residential address in Norwich which was being used to pack counterfeit hand rolling tobacco. Around three quarters of a tonne of hand rolling tobacco was discovered on site, taking the total weight of hand rolling tobacco seized to over 800kg.

In line with our Enforcement Policy we will continue in 2019/20 to provide an effective response to secure compliance from and/or disrupt Norfolk businesses engaged in supplying illegal tobacco, including:

- Seizure and destruction of illegal tobacco
- Seizure of criminal assets (including vehicles & cash)
- Prosecutions & issuing of formal cautions
- Preventing the issue of and recommending the revocation of Premises Licences
- Carrying out safety testing, where appropriate, on illegal cigarettes
- Working with the landlords of properties used for the supply or storage of illegal tobacco
- Working with Norfolk Constabulary to explore the use of Closure Orders for premises used in the supply of illegal tobacco.

Trading Standards, in conjunction with Norfolk Constabulary's Licensing Team, has continued to apply to revoke existing Premises Licences and prevent unsuitable applicants from obtaining them. A Premises Licence was revoked in Kings Lynn and a Premises Licence was revoked and a Designated Premises Supervisor Licence was removed in Norwich. A second premises licence in King's Lynn is being reviewed. A Great Yarmouth business was also refused a Premises Licence.

The Service has continued to adopt a multi-agency approach during 2018-2019 to tackle illegal tobacco. Partners include Norfolk Constabulary, District Council Licensing teams and HMRC. Two large joint operations have been carried out with Norfolk Constabulary in King's Lynn resulting in over 1.2 million illegal cigarettes being removed from the Norfolk market place.

We are also continuing to work very closely with other local authorities and sharing intelligence as cross-border offenders have been identified.

To date in 2018-2019 three illegal tobacco traders have been prosecuted. Sentences include a four-month suspended prison sentence and 150 hours of Community Service, 200 hours of Community Service and a £2,000 fine. Other illegal tobacco investigations and prosecutions are ongoing.

### **Nicotine inhalation products (Electronic Cigarettes)**

The use of electronic cigarettes has increased considerably during recent years. The fluids used in these products are now subject to the same age restrictions as cigarettes and tobacco.

The use of e-cigarettes at age 15 in Norfolk is 18.6% which is above the England average of 18.4% and the East of England average of 16%.

Trading Standards has received intelligence regarding three premises selling nicotine containing liquids to under 18's in the first three quarters of 2018-2019. These businesses all received advice regarding the supply to under 18's.

The Tobacco & Related Products Regulations 2016 cover labelling, size and nicotine content of the liquids. During the last service year, Trading Standards participated in a Department of Health project looking at the compliance of products on the market place. Inspections were carried out and only minor labelling issues were found in Norfolk and advice was provided. Trading Standards will continue to inspect nicotine inhalation products for compliance in 2019/20.

## **Other areas of focus**

Alcohol, tobacco and nicotine inhalation sales to under 18's remain a priority area because of the problems identified at both local and national level. However, compliance visits target all age restricted products.

### **(A) Fireworks**

Figures continue to show a drop in the number of anti-social behaviour incidents involving fireworks in Norfolk. The recorded incidents were not attributed to juveniles so Trading Standards advised Norfolk Constabulary in 2018-2019 that we would assist in any action they were carrying out but would not lead. This will continue to be the case in 2019/20.

Trading Standards will respond to any intelligence received regarding the supply of fireworks to persons under 18. In August 2018 two young men received written warnings in relation to the illegal storage and supply of illegal fireworks following a joint operation with Norfolk Constabulary and Norfolk Fire & Rescue Service. Five kilograms of illegal fireworks were removed from circulation.

### **(B) Knives**

Trading Standards will continue to work with the Police and other agencies in support of local and national initiatives to reduce knife crime. Trading Standards assisted Norfolk Constabulary with Operation Sceptre, a national initiative to reduce knife crime by carrying out joint advice visits to knife retailers. In the 2019/20 service year Trading Standards will be assisting Norfolk Constabulary in Great Yarmouth with their efforts to reduce knife crime in the area.

Trading Standards received two complaints about premises in Norfolk selling knives to persons under 18 in the first three quarters of 2018-2019. Both businesses received advice on preventing sales to persons under 18. One premises was tested with 15 and 16 year old volunteers. No prohibited knives were sold to the volunteers.

There is currently an Offensive Weapons Bill progressing through Parliament with provisions to ban online sales of knives for delivery to residential addresses and lockers. This is likely to lead to a new area of work in the 2019/20 service year for Trading Standards.

### **(C) Other Products**

Intelligence regarding the underage sales of other products is rare and none has been received in the first three quarters of 2018-2019. Where this is received the premises will be visited and offered advice. An underage test purchase will be carried out where necessary.

The Offensive Weapons Bill described above also proposes an age restriction of 18 on the sale of certain corrosive substances and bans their delivery to residential addresses and lockers. This is likely to lead to a new area of work in the 2019/20 service year for Trading Standards.

## **Looking ahead to 2019/20**

### **Enforcement Activity (including test purchasing programmes)**

Trading Standards will continue to focus our limited resources on alcohol, tobacco and nicotine inhalation products. We will also respond to intelligence related to other products as detailed earlier in this plan, where there is an identified need. The Service, working with our police partners, will take a robust stand regarding anyone found to be purchasing alcohol or tobacco products on behalf of a young person.

The service will continue to take a graduated approach to information which indicates that underage sales are taking place at particular off licence premises or in an identified area. This approach will usually begin with the delivery of targeted advice and support, including the provision of refusal books. Following the provision of advice and support the service will test the business' underage sale 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 'on licence' premises.

The recruitment, selection and utilisation of young persons for test purchasing will only 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 test purchase programmes have been subject to police vetting procedures.

The Service is recruiting young adults from the Police Cadets force and from Further Education establishments. These 18 to 20 year old volunteers are utilised to test the effectiveness of the underage sales policies of retailers who have received advice and assistance.

Enforcement activity will also be carried out at premises where intelligence is received regarding the sale of illegal tobacco. Much of the intelligence Trading Standards receives around illegal tobacco also alleges sales to young persons. 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, as appropriate.

### **Tackling 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.



## **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 PASS Scheme criteria. Many retailers have adopted the “Challenge 25” policies in relation to all age restricted products. Trading Standards will continue in 2019/20 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.