

**CABINET – 24 MAY 2019****ENFORCEMENT PROGRAMME FOR UNDERAGE SALES  
OF TOBACCO PRODUCTS, NICOTINE PRODUCTS AND  
AEROSOL PAINT PRODUCTS 2019/2020****REPORT OF THE CHIEF EXECUTIVE****PART A****Purpose of the Report**

1. The purpose of this report is to seek the Cabinet's approval of the proposed Enforcement Programmes for Underage Sales of Tobacco and Nicotine Products (Appendix A) and Aerosol Paint Products (Appendix B) for 2019/20.

**Recommendation**

2. It is recommended that the 2019/2020 Enforcement Programmes for Underage Sales of Tobacco and Nicotine Products set out in Appendix A, and Aerosol Paint Products set out in Appendix B, be approved.

**Reason for Recommendation**

3. To enable the County Council to meet its statutory obligation under Section 5(1) of the Children and Young Persons (Protection from Tobacco) Act 1991 (as amended) and Section 54A of the Anti-Social Behaviour Act 2003.

**Timetable for Decisions (including Scrutiny)**

4. Annual Cabinet approval of these two programmes is required under the legislation referred to in paragraph 3 above.

**Policy Framework and Previous Decisions**

5. The enforcement programmes proposed in this report represent a continuation of previous policies and plans.

**Resource Implications**

6. The 2019/20 Trading Standards Service budget includes provision to undertake enforcement as a means to reduce the risk of age-restricted products being supplied to children in Leicestershire. Age restricted products include tobacco, nicotine and aerosol spray paint products.

**Circulation under the Local Issues Alert Procedure**

7. None.

**Officer to Contact**

Gary Connors  
Head of Regulatory Services, Chief Executive's Department.  
Tel: 0116 305 6536  
E-mail: [gary.connors@leics.gov.uk](mailto:gary.connors@leics.gov.uk)

## **PART B**

### **Background**

#### **Tobacco and Nicotine**

8. The County Council is required to approve an enforcement programme under The Children and Young Persons (Protection from Tobacco) Act 1991. This legislation is designed to protect children from the health risks associated with smoking tobacco and nicotine products.
9. Legislation bans the sale of tobacco products to persons under the age of 18 years and prohibits the sale of single cigarettes. There is also a legal requirement to display notices on trading premises stating that the sale of tobacco products to children is unlawful.
10. Regulations made under the Tobacco Advertising and Promotion Act 2002 prohibits the display of tobacco products at the point of sale and controls the manner in which pricing information is communicated to the consumer.
11. The Standardised Packaging of Tobacco Products Regulations 2015 and the Tobacco and Related Products Regulations 2016 require all tobacco products to be sold in plain packaging with prescribed health warnings.
12. The Children and Families Act 2014 prohibits the sale of nicotine products to persons under the age 18 years.
13. The County Council has delegated the enforcement responsibilities described in paragraphs 9 to 12 above to the Trading Standards Service.
14. The agreed County Council Medium Term Financial Strategy 2018/19 required Trading Standards to identify savings of £60,000 which was achieved by reducing the level of preventative enforcement activities. As a result routine inspection of retailers, specifically to check for compliance with tobacco products legislation has now ceased. However, the Trading Standards Service continues to prioritise its investigative resources, by tackling those traders that persistently fail to put in place appropriate measures, to prevent age restricted products being sold to children.

#### **Aerosol Spray Paint Products**

15. The Anti-Social Behaviour Act 2003 makes it an offence for anyone to sell aerosol paint products to persons under the age of 16 years. The legislation is designed to help tackle the problem of unsightly and illegal graffiti that, if left unmanaged, can lead to other anti-social behaviour.
16. When the legislation was first introduced aerosol paints were sourced from local retailers. The evidence now suggests there are alternative products that are less expensive and easier to conceal. In cases where aerosols are used they are more likely to be obtained via internet shopping, rather than a local retailer.

### Tobacco and Nicotine Products Enforcement Programme 2018/2019

17. Enforcement activities during 2018/2019 were 'intelligence led' and have included :-
- i. Inspection visits to 9 retailers to ensure compliance with the statutory requirements to display age restriction cigarette notices and to ensure the tobacco products were not on display.
  - ii. The investigation of 54 incidents alleging sales of age restricted products to children, six of which related to cigarettes and four alleging the supply of nicotine products to children. Warnings were issued to the respective businesses. The remaining 44 incidents alleged sales of alcohol to children.
  - iii. From an intelligence led and risk assessment perspective, tackling the retail supply of illicit and/or counterfeit tobacco remained the highest priority for enforcement. This criminality continues to undermine the local economy and provides opportunities for children to acquire inexpensive tobacco products. Test purchase exercises, authorised and approved by the Magistrates' Court, resulted in the seizure of approximately 10,000 illicit products and the commencement of criminal proceedings in respect of 13 defendants.

### Underage Sales of Aerosol Paint Products– Enforcement Programme 2019/20

18. The Service has written to all district councils within Leicestershire requesting them to identify any areas of concern relating to graffiti. No specific trading premises were identified for further enforcement.

### Enforcement Programmes for 2019/20

19. The proposed enforcement programmes for tobacco products and aerosol paint products are shown in Appendices A and B attached to this report.

### Equality and Human Rights Implications

20. There are no specific equality and human rights implications arising from this report.

### Background Papers

Report to the Cabinet on 1 May 2018 - Enforcement Programme for Underage Sales of Tobacco Products and Aerosol Paint Products 2018/19.

<http://politics.leics.gov.uk/ieListDocuments.aspx?CId=135&Mid=5180&Ver=4>

### Appendices

Appendix A - Enforcement Programme for Tobacco and Nicotine Products 2019/2020.  
Appendix B - Enforcement Programme for Aerosol Paint products 2019/2020.