

Health and Wellbeing Board - 3 March 2014

Enforcement of Legislation Relating to the sale of Age Restricted Products

1. Purpose

At a recent meeting of the Health and Wellbeing Board, a report was requested on the work undertaken to tackle the sale of alcohol to persons under the age of 18. This report gives an overview of that work, including some reference to the underage sale of tobacco.

2. Recommendation

That the board note the contents of the report and support the continuation and development of work in this field.

3. Report detail

3.1 The Council is committed to reducing preventable ill-health across the Borough and the transfer of Public Health to the organisation on 1 April 2013 has enhanced this commitment. The Trading Standards service has responsibility for enforcing the legislation for under age sales of alcohol and other age-restricted products such as tobacco and fireworks. Trading Standards work in partnership with other agencies to reduce the ease with which alcohol can be bought by children. This work has been given a high priority, as the impact of children having access to alcohol not only has the potential to cause serious future health problems but it is a key source of anti-social behaviour and crime within the borough.

3.2 In order to tackle this problem, Trading Standards has built strong working relationships with a number of partners including local traders, schools, the police and local health services. The service has adopted a three-pronged approach to reduce under age sales of alcohol:

Advice to Traders

3.3 All Walsall traders who sell age restricted goods, including alcohol, are visited on a regular basis and provided with a range of notices, posters and guidance leaflets. They are also advised on the elements of a due diligence defence which can help them avoid selling goods to persons under age. This includes the use of a refusals book, staff training and the 'Challenge 25' scheme. All traders are advised to always request a proof of age card if unable to judge the age of a purchaser and adhere to the principle 'no card, no sale'.

3.4 Licensees, the police and Trading Standards come together at regular 'Pubwatch' meetings to discuss crime prevention schemes and to promote safe, secure social drinking in Walsall.

3.5 In recent years, Trading Standards has undertaken joint visits with West Midlands Police to local off-licence premises. The idea behind these visits is to advise the licensees about the law relating to age-restricted sales, proxy sales, checking statutory notices are displayed and answering any questions licensees may have. The visits are carried out during the evening when youngsters are often loitering near such premises and any young people drinking on the street or causing any anti-social behaviour can be dealt with by the police officer. The visits have been well received by the local licensees and also customers and residents in the community. The exercise has helped improve relationships and break down the barriers between licensees, the police and local enforcement agencies as they can see that all partners are working together to try and help them run their businesses responsibly.

3.6 The co-location of licensing and the licensing enforcement team has resulted in a strong relationship between officers from the sections and consequently increase in the advice given to business.

Validate UK Proof of Age Scheme

3.6 Validate UK is a nationally recognised card issued to children at local schools. Validate cards have scanned photos, the holder's date of birth and they also bear the Government endorsed PASS (Proof of Age Standards Scheme) logo. The Enforcement Support Officer from Trading Standards visits Walsall's Secondary schools and the College and informs pupils of the merits of the Validate scheme. Because the card is issued through the schools, it is easy to verify the date of birth against the school records, thus maintaining its integrity. Walsall Trading Standards cover the cost of the card therefore making it free to children. This has increased the take-up rate and made it easier to educate traders on the types of cards which they can accept. This costs about £2500 per year. However access to schools is not consistent and there are a number of schools to which officers do not have access.

3.7 Thousands of cards have been issued and the most recent success has been in access to the students at Walsall College, which officers now regularly visit to promote the scheme and issue cards. This is often linked with 'Freshers' week and health events held at the College.

Enforcement

3.8 A robust enforcement strategy targeting those traders who persist in flouting the law is also in place. This complements the Validate scheme and trader advice strategies. Despite the best efforts of all the partners, there are always a small minority of traders who fail to take on board their social responsibility and are prepared to put profits above all else. The Trading Standards Team therefore carries out regular enforcement exercises. These are directed at those traders about whom

we still receive complaints or who intelligence from partners highlights as those who continue to sell age restricted products to children.

3.9 It is an offence in the Licensing Act 2003 for a child to buy or attempt to buy alcohol. However, to facilitate such test purchase operations, the legislation provides an exemption when the activity is under the direction of a police officer or an inspector of weights and measures (trading standards).

3.10 In order to carry out these exercises, it is necessary to rely on volunteers recruited from local schools to make the purchases. Meetings are held with the young people and their parents or guardians to ensure that they understand what happens during an operation, the implications and that they understand that this is not something they should do off their own back. Where the volunteer may be asked to lie about their age during a test purchase, express permission for this is obtained from the parents. These test purchases are supervised by Trading Standards Officers. Test purchases are also carried out at on-licence premises throughout the borough in conjunction with Walsall police.

3.11 Test purchase operations for alcohol at off licences and for other age restricted products are run independently by trading standards using intelligence and complaints from a variety of sources. However, due to the added risks, on licence operations are police led and trading standards assist.

ILLEGAL SALES OF ALCOHOL AT ON-LICENCES AND OFF-LICENCES

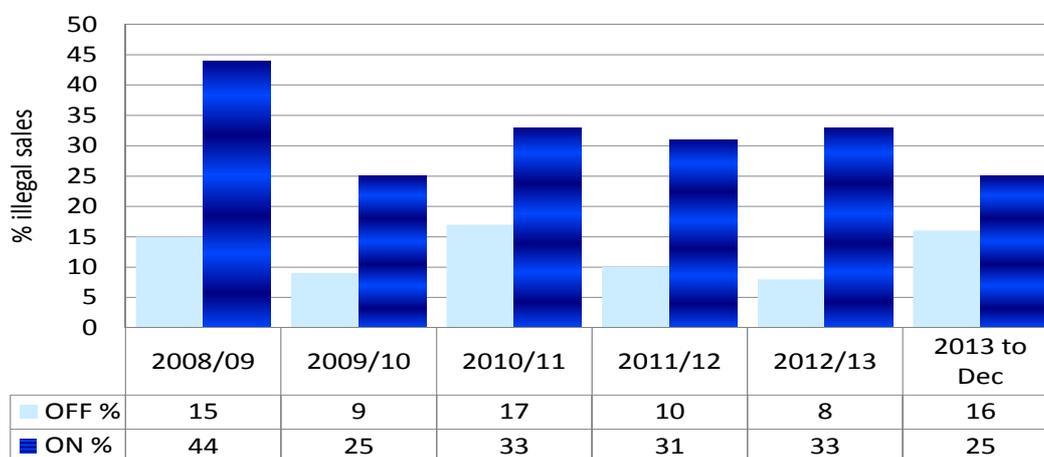


Table 1

3.12 Table 1 above illustrates the number of illegal sales made to children from on and off licence premises. Over the years the number of sales from police led operations has been consistently high. The number of illegal sales from off-licence premises has decreased. This financial year there has been a rise in illegal sales but this may be the result of a change in how we operate. Historically, premises were randomly selected to attempt a test purchase from. Due to a change in the code of

practice followed by Trading Standards and the legislation governing the conduct of covert surveillance, it is now only possible to attempt test purchases from traders about which there are complaints or other intelligence. This may explain the rise in recent sales as this 'targeting' is more effective. The number of sales from 2012/13 from 2010/11 has been halved which may be the result of advisory visits, the promotion of the Validate card and press coverage about the dangers of underage drinking.

3.13 Walsall Traders are advised to always request proof of age and told that just asking a persons age or date of birth is not enough. Following this advice, the number of traders requesting Identification during a test purchase operation has dramatically increased over the years as illustrated in table 2 below.

INCIDENTS WHERE SELLER HAS REQUESTED PROOF OF AGE EVIDENCE

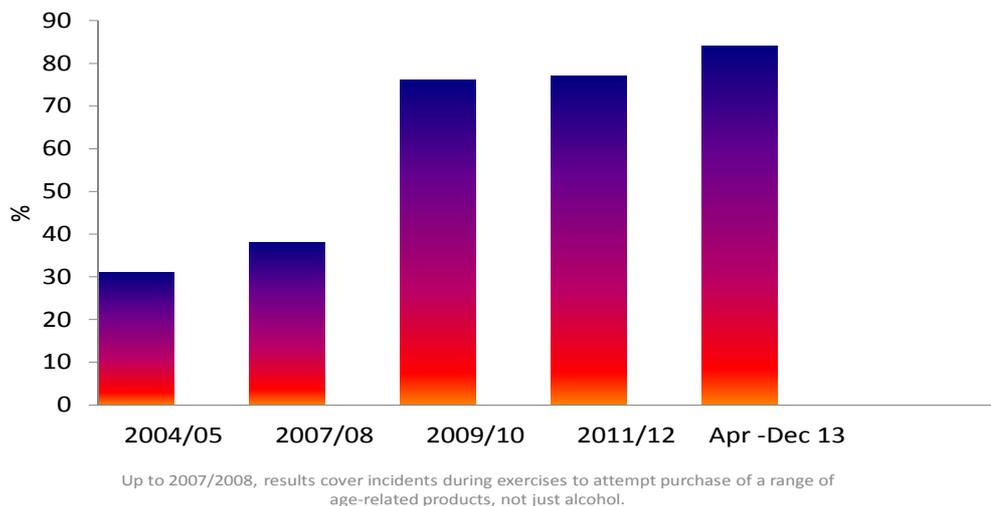


Table 2

Penalties for Underage Sales

3.14 The age relating to restricted products and the penalties for selling age restricted products to a person who is underage vary and can include prosecution, fines and imprisonment, as illustrated by table 3 below.

3.15 For alcohol it is a fine of up to £5000 but for If a personal licence holder is convicted of selling alcohol to a person underage, the courts may order the personal licence to be forfeited or suspended. A review of the premises licence may also be held and this could result in additional conditions or restrictions being put on the licence or the licence might be suspended or revoked.

3.16 Recent prosecutions taken by Trading Standards relating to the sale of alcohol and tobacco are highlighted in appendix 1.

Age restricted products	Minimum age	Maximum Penalty
Alcohol	18 years	£5,000 and potential for review of licence
Cigarettes and tobacco	18 years	£2,500
Fireworks (including sparklers)	18 years	£5,000 and/or 6 months imprisonment
Offensive weapons such as knives	18 years	£5,000 and/or 6 months imprisonment
Butane gas cigarette lighter refills	18 years	£5,000 and/or 6 months imprisonment
Solvents	18 years	£5,000 and/or 6 months imprisonment
Tattoos	18 years	£1,000
Airguns and ammunition for airguns	18 years	£5,000 and/or 6 months imprisonment
Other firearms and ammunition for those firearms	17 years	£5,000 and/or 6 months imprisonment
Crossbows	17 years	£5,000 and/or 6 months imprisonment
Liqueur chocolates	16 years	£500
Party poppers, cracker snaps, novelty matches, serpents, caps and throwdowns	16 years	£5,000 and/or 6 months imprisonment
Videos, DVDs, computer games, cinema films, etc	12, 15, 18 years	£5,000 and/or 6 months imprisonment
Lottery tickets and scratch cards	16 years	£5,000 and/or 6 months imprisonment
Aerosol paint	16 years	£2,500

Table 3

Future Developments

3.17 It is estimated that only 6% of children who drink under age buy their alcohol from retailers. The other sources are family, friends and older siblings and proxy sales where the young person asks an adult to go into the premises to buy it for them. Information for businesses and residents on proxy sales is available and it is included in the advisory visits to business. However, although an offence, this is a difficult area to enforce with formal action and officers are consulting with colleagues in other authorities to identify if there is any best practice which can be shared and applied in Walsall.

3.18 The advice and enforcement approach outlined is only one tool to tackle under age drinking and smoking and Trading Standards recognize the impact their role can have on improving health and well-being across Walsall. It is essential that we continue to engage with partners to ensure we allocate resources effectively and help reduce youngsters' access to alcohol and other age restricted products.

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Appendix 1 Results of Prosecutions

On 23rd September 2013 at Walsall Magistrates Court

Mr Ashvin Patel, the owner of Palfrey Wines, Milton Street, Walsall pleaded guilty to selling alcohol to a minor. He was ordered to pay a fine of £200, costs of £600 and a £20 victim surcharge.

On 9 September 2013 at Walsall Magistrates Court

Devendrasinh Parmar, the owner of Bradford Street News, Bradford Street, Walsall pleaded guilty to selling alcohol to a 16-year-old volunteer. He was ordered to pay a fine of £200, costs of £1244.09 and a £20 victim surcharge.

On 27 April 2012 at Walsall Magistrates Court

Chandan Singla, the owner and licence holder of Jay's Store, Walsall Road, Willenhall was found guilty of selling a bottle of vodka to a 15-year-old volunteer. He was fined £300 and ordered to pay costs of £1500. At a previous hearing in November 2011 Varinder Singh had been found guilty of serving the vodka to the underage volunteer. The case was heard in his absence. He was fined £1000 and ordered to pay costs of £532.60 plus £15 victim surcharge.

On 29th July 2013 at Walsall Magistrates Court

Adnan Younis, the seller at General Food store, Jessel Road, Walsall pleaded guilty to selling a packet of cigarettes to a minor and was fined £110 and ordered to pay costs of £250 and a £20 Victim Surcharge. The owner of the store Mr Razwan Younis did not turn up to Court and was fined in his absence a sum of £600 and ordered to pay costs of £500 and a £20 Victim Surcharge.

November 2013

Mr Majanlal Patel and Mrs Laxmi Patel, the owners of Bangla General Store, Milton Street, Palfrey were issued Simple Cautions for selling cigarettes to a minor.

In addition six cases are under investigation – three for underage sales of alcohol and three for tobacco.