



CABINET

10 NOVEMBER 2004

**AGENDA
ITEM:**

OFFENSIVE WEAPONS ACT

Ward(s): All

Forward Plan: Yes

Portfolio: Councillor M Longhi – Environment
Councillor M Pitt – Housing & Community Safety

Service Area: Built Environment

Summary of Report:

This report asks Cabinet to recommend to Council that the enforcement of the Criminal Justice Act 1988, as amended by the Offensive Weapons Act 1996, and the enforcement of the relevant provisions of the Restriction of Offensive Weapons Act 1959, to be delegated to the Head of Public Protection. This will include authorising officers to test purchase sales of offensive weapons and to take action where illegal practice is detected. Anyone found committing the offence of selling offensive weapons to children under 16 years of age risks a maximum fine of £5,000 or a long-term prison sentence.

Overall levels of crime and disorder have significantly fallen in Walsall over the last five years and the Safer Walsall Partnership has developed a range of initiatives to further improve partnership working and reduce crime and disorder and the fear of crime. Improving enforcement in this area will make a positive contribution to reducing crime and the fear of crime, complementing the Council's existing enforcement programme relating to the investigation of offences in connection with the illegal supply of age-restricted products to minors, such as alcohol and cigarettes.

The adoption of this legislation will contribute to the Council's Vision and ensure all people are safe and secure and offer a safe community for people to live, work and spend their free time.

Background Papers:

1. The Offensive Weapons Act 1996
2. The Criminal Justice Act 1988
3. The Criminal Justice Act 1988 (Offensive Weapons) (Exemption) Order 1996
4. The Restriction of Offensive Weapons Act 1959

Recommendations:

The Council, as a key partner, already undertakes a range of actions to reduce crime and the fear of crime, and plans further improvements over the next year around crime prevention, enforcement and treatment. This report recommends improvements to our enforcement activity.

Cabinet recommends to Council that:-

1. The enforcement of the relevant provisions of The Criminal Justice Act 1988, as amended by the Offensive Weapons Act 1996, which relate to the sale of knives and certain articles with blade or point to persons less than 16 years of age, be delegated to the Head of Public Protection.
2. The enforcement of the relevant provisions of The Restriction of Offensive Weapons Act 1959, with respect to the offences for the sale, etc of flick knives and gravity knives be delegated to the Head of Public Protection.

Signed:**Executive Director: S Davidson-Grant****Date:****Signed:****Portfolio Holder: Councillor M Longhi****Date:****Signed:****Portfolio Holder: Councillor M Pitt****Date:**

Resource and Legal Considerations

Enforcement of this legislation is a natural extension to those enforcement activities currently undertaken by the Trading Standards Service. This will be carried out using existing resources.

The Offensive Weapons Act 1996 amended the Criminal Justice Act 1988 and makes it illegal to sell to children under 16 years old.

- Any knife, knife blade or razor blade, or
- Any axe, or
- Any article which has a blade, or which is sharply pointed and which is made or adapted for causing injury to the person.

The Restriction of Offensive Weapons Act 1959 makes it illegal for any person to manufacture, sell, hire, offer for sale, offer to hire, expose or have in possession for sale or hire, a flick knife or gravity knife.

Anyone found committing any such offence risks a maximum fine of £5,000 or a term of imprisonment up to six months.

It is envisaged that enforcement of the Restriction of Offensive Weapons Act 1959 will be limited to any such offence detected whilst undertaking our programmed test purchasing exercises.

Citizen Impact

The adoption of this legislation and any subsequent enforcement activity to prevent the unlawful supply of knives and similar items to minors will assist in the maintenance of a safer environment for the citizens of Walsall in accordance with the objectives of the Safer Walsall Borough Partnership.

Environment Impact

None directly arising from this report.

Performance Management and Risk Management Issues

The enforcement of age-restricted sales legislation is a high priority for the Council. There is in existence an effective and efficient procedure for carrying out test purchasing exercises. The adoption of this legislation will lead to a more comprehensive approach.

Equality Implications

Adoption of the legislation will make a positive impact on the safety and fear of crime on all citizens and visitors to Walsall.

Consultation

The report has been prepared following consultation with Legal Services, West Midlands Police and the Community Safety Unit.

Vision 2008

The adoption of this legislation will support the priority to ensure all people are safe and secure and offer a safe community for people to live, work and spend their free time.

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1. THE CURRENT POSITION

- 1.1 There is a great deal of concern over the sale and use of lethal weapons. A series of measures have been introduced which are designed to curb the use of dangerous knives. In particular, the supply of these weapons to children less than 16 years of age.
- 1.2 The Council has in existence a robust programme of enforcement relating to age-restricted products. This has been developed over recent years with the co-operation of schools and the young volunteers who assist with this programme and their parents.
- 1.3 Although the legislation is primarily aimed at the police, the Council could make a positive contribution in this area. There are no similar arrangements to carry out test purchasing exercises within Walsall's Police Command Units and it therefore makes sense to build on existing good practice.

2. THE LEGISLATION

- 2.1 Section 6 of The Offensive Weapons Act 1996 amended the Criminal Justice Act 1988 and inserted the following section:-

- 141A (1) Any person who sells to a person under the age of sixteen years an article to which this section applies shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding level 5 on the standard scale, or both.
- (2) Subject to subsection (3) below, this section applies to:-
 - (a) any knife, knife blade or razor blade,
 - (b) any axe, and
 - (c) any other article which has a blade or which is sharply pointed and which is made or adapted for use for causing injury to the person.
- (3) This section does not apply to any article described in:-
 - (a) section 1 of the Restriction of Offensive Weapons Act 1959,
 - (b) an order made under section 141(2) of this Act or
 - (c) an order made by the Secretary of State under this section.
- (4) It shall be a defence for a person charged with an offence under subsection (1) above to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

- 2.2 The Criminal Justice Act 1988 (Offensive Weapons) (Exemption) Order 1996 exempts from the above offence the sale of a folding pocket knife with a blade of less than 7.62 cm (3 inches) and a razor blade permanently enclosed in a cartridge or housing.

2.3 Section 1 of The Restriction of Offensive Weapons Act 1959 - In the event of the supply of a flick knife or gravity knife (exempted from the above legislation) the following should also be adopted:-

(1) Any person who manufactures, sells or hires or offers for sale or hire or exposes or has in his possession for the purpose of sale or hire or lends or gives to any other person -

(a) any knife which has a blade which opens automatically by hand pressure applied to a button, spring or other device in or attached to the handle of the knife, sometimes known as a “flick knife” or “flick gun”, or

(b) any knife which has a blade which is released from the handle or sheath thereof by the force of gravity or the application of centrifugal force and which, when released, is locked in place by means of a button, spring, lever, or other device, sometimes known as a “gravity knife”,

shall be guilty of an offence and shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or to both such imprisonment and fine.

3. CONCLUSION

3.1 By the adoption of this legislation Walsall Metropolitan Borough Council will build upon existing good practice with respect to the enforcement of age restricted sales. Resource implications will be kept to a minimum as officers from the Trading Standards Service will carry out this additional duty as part of the existing programmed test purchasing exercises. Where illegal sales are made appropriate enforcement action will be taken in accordance with our Enforcement Policy which includes the prosecution of offenders.

3.2 Overall levels of crime and disorder have significantly fallen in Walsall over the last five years and the Safer Walsall Partnership has developed a range of initiatives to further improve partnership working and reduce crime and disorder and the fear of crime. Improving enforcement in this area will make a positive contribution to reducing crime and the fear of crime, complementing the Council’s existing enforcement programme relating to the investigation of offences in connection with the illegal supply of age-restricted products to minors, such as alcohol and cigarettes.

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