

**To the Chair and Members of the
LICENSING COMMITTEE (Meeting as the Statutory Licensing Committee
under the Licensing Act 2003)**

LICENSING ACT 2003 – UNDER AGE SALES POLICY

EXECUTIVE SUMMARY

1. The purpose of this report is to update Members on issues relating to Under Age sales of alcohol and the action taken by Trading Standards.

EXEMPT REPORT

2. Not applicable

RECOMMENDATIONS

3. It is recommended that Members note the information and comment on the work carried out.

BACKGROUND

4. Sales of alcohol to young people under the age of eighteen can lead to anti social behaviour and health problems. It is illegal for sales to take place and Trading Standards and the Police work in tandem to carry out test purchasing to ensure the law is being upheld.
5. The Council carries out test purchasing of age-restricted products using young volunteers according to a tightly controlled and risk assessed procedure, based on Local Authority Coordinators of Regulatory Services (LACORS) guidelines. These guidelines were updated and reissued in March 2010.
6. The previous guidelines were very restrictive and did not reflect real life situations. The authority is now able in exceptional circumstances, to consider whether it is appropriate to undertake test purchase operations where the young person is instructed not to answer truthfully any questions relating to their age posed by the seller. This may be considered in cases where the Local Authority has credible evidence that a specific premises is selling age restricted products to young persons that are underage and that the action of the seller is always to ask the young person their age. Given that test purchasers will answer truthfully, the seller avoids making a sale whereas, had the young person not answered truthfully a different outcome may have ensued.

7. There has also been a recent revision to the legislation governing the enforcement provisions that a Trading Standards department can call upon through its appointed Weights and Measure Inspectors. Significantly the offence created for persistent selling of alcohol to those who are underage has been amended. Previously persistent sales were deemed as three sales within a three-month period this has been shortened to two sales in a three-month period. This amendment has also reinforced those licensees who are deemed to be persistently selling can be asked to voluntarily close for up to 48hrs by a Weights and Measures Inspector.
8. This year since April 1st 2010 210 attempted test purchases of alcohol have been made by a combination of Police and Trading Standards operations. Of these 20 failed (9.5% failure rate) and were issued with £80 fixed penalty notices. Each premise was subsequently visited by an officer and appropriate formalised action plans were agreed and put in place.
9. All premises who failed this initial test purchase, had a 2nd test purchase attempt made within three months, 18 premises passed with only two premises failing on the 2nd occasion. Fixed penalty notices were issued and the Trading Standards agreed Voluntary Closure orders for those premises for 48 hours.

OPTIONS CONSIDERED

10. N/A

REASONS FOR RECOMMENDED OPTION

11. N/A

IMPACT ON THE COUNCIL'S KEY OBJECTIVES

12. This effective operation of the Licensing Authority is a key part of the Council's statutory responsibility.

Doncaster Priorities	Implications of this initiative
A Prosperous Place	The Safe Team and others within the Safer Business Team will assist in promoting best practise within the retail trade and help to support regeneration of communities.
Skills & Lifelong Learning	
Healthy & Caring	Problems of underage drinking will be under discussion and best practise will be encouraged from the retail trade to ensure that underage sales and drinking is reduced.
Safer, Cleaner & Greener	
Equality of Opportunity (Cross-Cutting)	

Improving Neighbourhoods Together (Cross-cutting)	Working with the trade will help to ensure that neighbourhoods will have an opportunity to contribute to resolving on going problems and contribute to the consultation with regard to the Licensing Policy which is reviewed every three years
Protecting The Environment (Cross-cutting)	
Achieving Excellence	Best practice through the Safer Business team will feature as a way of achieving excellence for all

RISKS AND ASSUMPTIONS

13. N/A

LEGAL IMPLICATIONS

14. The LACORS Guidance, 'A Practical Guide to Test Purchasing', states that in exceptional circumstances, the Local Authority may consider whether it is appropriate to undertake test purchase operations where a young person is instructed not to answer truthfully any questions relating to their age posed by the seller. If the Local Authority determines that this course of action is to be taken, then a risk assessment must be carried out and the reasons for the decision documented. However, the guidance is only guidance and there is still a risk that should such a course of action be taken, the admissibility of that evidence may be challenged in any criminal proceedings.
15. Section 147A(1)(a) of the Licensing Act 2003 (as amended), states that a person is guilty of an offence if on 2 or more occasions within a period of 3 consecutive months alcohol is unlawfully sold on the same premises to an individual aged under 18, at the time of each sale the premises were either licensed premises or premises authorised to be used for a permitted temporary activity by virtue of Part 5 and that person was a responsible person in relation to the premises each such time.

FINANCIAL IMPLICATIONS

16. There are no financial implications associated with this report.

CONSULTATION

17. The work on under age sales is set up as a result of intelligence and complaints. The Police and Trading Standards exchange information to make best use of resources.

Procurement		Crime and Disorder	X
Human Resources		Human Right & Equalities	
Buildings, Land and Occupiers		Environment & Sustainability	
ICT		Capital Programme	

REPORT AUTHOR & CONTRIBUTORS

Hilary Caunt, Regulation and Enforcement Manager.

Tel: 01302 737557

E-mail: hilary.caunt@doncaster.gov.uk

Peter Dale
Director of Regeneration and Environment