

**REPORT TO: ENVIRONMENTAL SERVICES AND SUSTAINABILITY COMMITTEE
15TH NOVEMBER 2004**

**REPORT ON: ANTISOCIAL BEHAVIOUR etc. (SCOTLAND) ACT 2004 – SALE OF SPRAY
PAINTS**

REPORT BY: HEAD OF ENVIRONMENTAL HEALTH & TRADING STANDARDS

REPORT NO: 769-2004

1.0 PURPOSE OF REPORT

- 1.1 This report seeks to inform members of powers granted to Local Authorities under the Antisocial Behaviour etc (Scotland) Act 2004, and to request that Trading Standards officers are authorised to undertake enforcement duties covering the sale of spray paints to children.

2.0 RECOMMENDATIONS

- 2.1 It is recommended that the committee notes the contents of this report and agrees that Trading Standards officers or other appropriate officers undertake enforcement duties for the purposes of the Antisocial Behaviour etc (Scotland) Act 2004 in relation to the sales of spray paints and that the Scheme of Delegation be amended accordingly.

3.0 FINANCIAL IMPLICATIONS

- 3.1 There are no financial implications arising from this report.

4.0 DUNDEE 21 IMPLICATIONS

- 4.1 People live without fear of crime, and in safe clean and pleasant environments. Preventing vandalism and graffiti, especially involving spray paint, will help provide a safe, clean and pleasant environment, and help reduce antisocial behaviour.

5.0 EQUAL OPPORTUNITIES IMPLICATIONS

- 5.1 There are no equal opportunity implications in this report

6.0 BACKGROUND

- 6.1 The Scottish Executive has stated that preventing vandalism and graffiti is a key part of their strategy to promote safe, secure and attractive communities and tackle antisocial behaviour. Graffiti involving spray paint is both particularly difficult and expensive to remove. The Scottish Executive also acknowledges that the ban on sales of spray paint to under 16s will not in itself prevent graffiti but Ministers believe that it is a useful step to control the misuse of spray paints by children who may indulge in acts of vandalism.
- 6.2 Section 122 of The Antisocial Behaviour etc (Scotland) Act 2004 creates the criminal offence of selling a spray paint device to a person under the age of 16. In addition Section 123 creates further legal requirements for retailers of spray paints to display, in a prominent position, a notice on premises stating that it is illegal to sell a spray paint device to anyone under the age of 16.
- 6.3 Dundee City Council's Trading Standards officers have a good relationship with Dundee traders, and have considerable expertise in this area, as they already enforce provisions of various legislation which control the sale of other age restricted products, for example tobacco, fireworks, videos, and solvents.

- 6.4 Dundee City Council has already implemented initiatives aimed at tackling the problem of graffiti, and in particular a joint approach involving Trading Standards and Waste Management won a silver award at last years COSLA Excellence Awards. Trading Standards Officers will liaise closely with the Council's Anti-Social Behaviour Team, and Community Safety Wardens in discharging these new duties in relation to spray paints.
- 6.5 The Scottish Executive intends to inform all relevant traders of the introduction of this new offence, but Trading Standards Officers in Dundee will also provide information and advice to local traders to ensure there is no doubt as to their legal obligations.

7.0 CONSULTATIONS

- 7.1 The Chief Executive
Depute Chief Executive (Support Services)
Depute Chief Executive (Finance)
Principal Officer – Anti Social Behaviour Team

8.0 BACKGROUND PAPERS

None

Albert Oswald
Head of Environmental Health & Trading Standards

5th November 2004