

**REPORT TO:** HOUSING, DUNDEE CONTRACT SERVICES AND ENVIRONMENT SERVICES  
13th June 2011

**REPORT ON:** NEW LAWS ON THE SALE AND PURCHASE OF TOBACCO

**REPORT BY:** HEAD OF ENVIRONMENTAL HEALTH AND TRADING STANDARDS

**REPORT NO:** 272-2011

## **1.0 PURPOSE OF REPORT**

This report updates Members on recent legislative changes, which deal with controls over the sale and purchase of tobacco products and impose new regulatory duties on the Council.

## **2.0 RECOMMENDATIONS**

- 2.1 It is recommended that the committee notes the contents of this report, and agrees that the Head of Environmental Health and Trading Standards, be given delegated authority to duly authorise officers within the EHTS Department, normally compliance team officers, to enforce the provisions of the Tobacco and Primary Medical Services (Scotland) Act 2010, including the issue of fixed penalty notices under section 27.
- 2.2 It is recommended that the committee delegates authority to the Head of Environmental Health and Trading Standards to make proper arrangements, under schedule 1 of the Act, to hear representations from persons as to why fixed penalty notices ought not to have been given.
- 2.3 It is recommended that the committee delegates authority to the Head of Environmental Health and Trading Standards to authorise, under section 5 of the Act, persons under the age of 18 to buy or attempt to buy tobacco products, for the purpose of determining whether an offence is being committed.

## **3.0 FINANCIAL IMPLICATIONS**

- 3.1 There is no new financial provision for the tasks associated with this legislation, however the Scottish Government allocated Dundee City Council £56,882 per annum for the three years to 31 March 2011 to carry out an enhanced tobacco enforcement programme, following the launch of its Smoking Prevention Action Plan '*Scotland's Future is Smoke-free*' in May 2008. This resource has now been incorporated into the general local authority settlement.

## **4.0 POLICY IMPLICATIONS**

- 4.1 This report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-poverty, Equality Impact Assessment and Risk Management, and the main issues identified are:
- 4.2 Equality Impact Assessment
  - 4.2.1 Enforcement of these provisions will have a positive impact on the health and well being of young people in Dundee.
  - 4.2.2 An Equality Impact Assessment has been carried out and will be made available on the Council website [www.dundee.gov.uk/equanddiv/equimpact/](http://www.dundee.gov.uk/equanddiv/equimpact/)

## **5.0 MAIN TEXT**

5.1 In March 2010 the Scottish Government introduced the Tobacco and Primary Medical Services (Scotland) Act 2010, the objective of which is to reduce the attractiveness, availability and consumption of tobacco products among older children and adolescents under the age of 18, leading to a reduction in smoking prevalence. The main provisions of the Act, some of which will only be fully implemented by the making of regulations, are as follows:

- Ban the display of tobacco and smoking related products in shops;
- Ban the sale of tobacco from vending machines;
- Introduce a tobacco sales registration scheme, which is free for retailers to join;
- Make it an offence for under 18s to purchase tobacco;
- Make it an offence for adults to buy tobacco for under 18s (proxy purchase);
- Give council officers powers to issue fixed penalty notices, and
- Give courts the power to ban retailers from selling tobacco where they have continually broken the law
- Introduce a duty on Dundee City Council to carry out a programme of enforcement action at least once every 12 months.

5.2 Regulations have already been made, which came into effect on 1 April 2011, providing the detail of the registration scheme for tobacco retailers and the documents that have been prescribed, as being acceptable evidence by a person who sells tobacco as to the age of the purchaser.

5.3 Environmental Health and Trading Standards has an existing role in enforcing the statutory provisions for other age restricted products, for example fireworks, video recordings, spray paint, lighter refills etc. and currently enforces the existing tobacco marketing and underage sale controls.

5.4 The Act introduces an authorisation process to allow council officers to continue to utilise young persons under 18, in test purchase operations intended to detect the illegal sale of tobacco products. Otherwise, similar to the position with sales of alcohol, these young persons would now commit an offence. Officers who authorise should not be personally involved at an operational level so it is recommended that the Head of Department and the Trading Standards Manager be delegated the authority to authorise the use of young persons under the age of 18.

5.5 This report supports the priorities of Dundee City Council, in relation to both 'Getting it right for every child', and in promoting 'Healthy, Safe Communities', and in particular contributes to the following Dundee Partnership Outcomes:

5.5.1 Outcome 3 - Our children will be safe, nurtured, healthy, achieving, active, respected, responsible and included, and

5.5.2 Outcome 5 - Our people will have improved physical and mental well being.

## **6.0 CONSULTATIONS**

The Chief Executive, Depute Chief Executive (Support Services), Assistant Chief Executive and Director of Finance have been consulted on this Report.

## **7.0 BACKGROUND PAPERS**

Equality Impact Assessment.

**Albert Oswald**  
**Head of Environmental Health & Trading Standards**

**Date: May 2011**