

DERBYSHIRE COUNTY COUNCIL

Cabinet Member – Health and Communities

18 July 2013

Report of the Strategic Director Cultural and Community Services

ALCOHOL HARM REDUCTION

1. Purpose of the report:

To advise the Cabinet Member – Health and Communities of activities undertaken by the Trading Standards Division to reduce the harm from alcohol.

2. Information and analysis:

- 2.1 The local authority has a duty to enforce the provisions of the Licensing Act which prohibits sales of alcohol to young people under 18. This responsibility rests jointly with the Trading Standards Division and Derbyshire Constabulary. Enforcing the provisions of the original licensing legislation had always been the province of the Police Authority. However, an amendment to criminal justice legislation in January 2002 imposed a duty on the local 'weights and measures authority' to enforce those provisions that made it an offence to sell alcohol to young people under the age of 18. A national 'Memorandum of Understanding' between trading standards services and the Police has led to the former assuming responsibility for seeking compliance with the under-sales requirements for shops, supermarkets and other 'off-licensed' premises, whilst the Police retain the lead for pubs, clubs and other 'on-licensed' premises.
- 2.2 The trading standards division carries out a range of functions to seek compliance with the legislation that is intended to prevent young people from gaining access to alcohol under-age. It also has some and potential future responsibility for ensuring compliance with legislation concerning the advertising and promoting of alcohol and for tackling sales of counterfeit alcohol.
- 2.3 The first opportunity to engage with businesses wishing to sell alcohol is to consider what steps are in place to prevent sales to young people when applying for a new or variation to an existing license to sell. As a 'responsible authority' under the licensing legislation, the trading standards division is required to assess all alcohol license applications to ensure that appropriate steps are in place to safeguard young people. If it is felt that these are insufficient, then officers will enter into a dialogue with the applicant to suggest improvements. If agreement cannot be reached with the applicant, then we have the power to raise an objection with the licensing authority.

- 2.4 As with other age-restricted products, the division has a programme of advisory visits to local off-trader businesses to check what precautions are in place to prevent illegal sales of alcohol. Training should be in place to ensure that sales staff challenge young people who could be under 18 and to keep records of any refusals. For those businesses that haven't sufficient systems in place, officers will seek to agree an 'action plan' to address any shortcomings. Failure to address inadequacies could lead to an application to the local licensing authority to have additional conditions placed on the premises license and/or a request to suspend or revoke the license if there is evidence of persistent non-compliance.
- 2.5 With the assistance of teenage volunteers and in accordance with Home Office approved guidance, test purchase exercises have been undertaken throughout Derbyshire to check for illegal sales of alcohol by local retailers. The guidance ensures that the volunteers and their parents/guardians are clearly briefed as to the purpose of the exercises. The guidance originally suggested that volunteers should be at least 18 months younger than the minimum legal age to purchase and be typical of their age-group. Volunteers are required to tell the truth if challenged about their age and not to coerce or persuade the retailer to sell to them. This guidance was to ensure that the health and safety of the young person was protected and that the retailer or sales assistance were not 'entrapped' in to selling alcohol. As volunteers the young people do not get paid for their time, although they do receive a gift voucher in recognition of their support.
- 2.6 The Division works closely with other agencies who have an interest in or responsibility for preventing alcohol harm. We were a founder member of the local 'VAL' groups (Violence, Alcohol and Licensing) and regularly attend meetings with Police, Community Safety and district council licensing colleagues to share intelligence about 'problem premises' and hot spots within the county. As well as being lead-agency for off-trade premises (shops, supermarkets, off-licences) the division also supports Police operations by providing the young volunteer test purchasers. The Community Safety team provide some financial assistance with this activity – which tends to be at weekends and/or in the evening.
- 2.7 During the last financial year, officers carried out 172 advisory visits to local businesses selling alcohol; many of these were carried out jointly with police and /or licensing authority officers. 147 test purchase checks were made which resulted in 15 (10.2%) illegal sales. This is on a par with recent years (see table below) and is a significantly better compliance rate than the period 2004-2009 when the failure rate ranged from 23% to 31.5%. (See appendix for details. The districts with the highest failure rates were Amber Valley and Bolsover (20% and 23.5% respectively – see appendix for details). Although there are no particular grounds for concern in these areas, it does highlight the need to maintain advice and support to local businesses across the county and the continued need for on-going market surveillance.

Off Trade Alcohol UAS Test Purchase Checks

	2010/2011	2011/2012	2012/2013
Number of Attempts	128	196	147
Sales	14	28	15
% of sales	10.9%	14.3%	10.2%

- 2.8 The annual programme of surveillance and test purchase checks for 'on-trade' premises is less well established and the failure rates correspondingly higher (see table below). However, the trend is clearly moving in the right direction with an improved compliance rate of 73% last year compared to only 51% in 2010-11.

On Trade Alcohol UAS Test Purchase Checks

	2010/2011	2011/2012	2012/2013
Number of Attempts	85	189	285
Sales	42	57	77
% of sales	49%	30%	27%

- 2.9 The division has a range of sanctions available following the detection of non-compliance – either following an illegal under-age sale, or other breach of licence condition. The most appropriate course of action following each illegal sale of an age-restricted product is determined on a case-by-case basis.
- 2.10 Formal disposal options available to trading standards for most products are:

- Letter of Warning
- Simple Cautions
- Prosecutions

However, for premises licensed for alcohol sales other actions can be applied:

- Penalty Notices for Disorder (issued by Derbyshire Constabulary).
- Closure orders for 'Persistent Selling'
- Voluntary variation of Premises Licence by the holder
- Premises Licence Reviews

- 2.11 Two letters of warning were issued to sales staff during 2012-13 and two were cautioned. A further 11 individuals were issued with penalty notices. Seven businesses were issued a letter of warning and/or advice; three agreed to a minor variation in their licence and five agreed to an action plan proposed by the division

3. Other considerations:

In preparing this report the relevance of the following factors has been considered; financial, legal, prevention of crime and disorder, equality of

opportunity; and environmental, health, human resources, property and transport considerations.

4. Background papers:

None

5. Key Decision:

No

6. Call-in:

Is it required that call-in be waived for any decision on this report?

No

7. Strategic Director's recommendation:

That the Cabinet Member – Health and Communities notes the contribution that the Trading Standards Division makes to reducing the harm from alcohol.

Martin Molloy
Strategic Director
Cultural and Community Services

Off Trade Alcohol UAS Test Purchase Checks – by district

		2010/2011	2011/2012	2012/2013
Amber Valley	Number of Attempts	27	17	20
	Sales	4	3	4
	% of sales	14.8%	17.6%	20.0%
Bolsover	Number of Attempts	17	22	17
	Sales	0	2	4
	% of sales	0%	9.1%	23.5%
Chesterfield	Number of Attempts	17	33	17
	Sales	1	9	1
	% of sales	5.9%	27.3%	5.9%
Derbyshire Dales	Number of Attempts	10	16	14
	Sales	1	2	1
	% of sales	10%	12.5%	7.1%
Erewash	Number of Attempts	18	29	19
	Sales	3	4	2
	% of sales	16.7%	13.8%	10.5%
High Peak	Number of Attempts	9	25	20
	Sales	3	3	1
	% of sales	33.3%	12.0%	5.0%
NE Derbyshire	Number of Attempts	12	34	21
	Sales	1	1	1
	% of sales	8.3%	2.9%	4.8%
South Derbyshire	Number of Attempts	18	20	19
	Sales	1	4	1
	% of sales	5.6%	20.0%	5.3%
Total	Number of Attempts	128	196	147
	Sales	14	28	15
	% of sales	10.9%	14.3%	10.2%

Historical test purchases (off-trade)

Alcohol	2004-05	2005-06	2006-07	2007-08	2008-09
No. of test purchase attempts	143	176	177	276	286
No. of illegal sales	45	46	41	76	77
% illegal sales of alcohol	31.5%	26.1%	23.2%	27.5%	26.9%
Number of complaints	78	78	88	86	88

On Trade Alcohol UAS Test Purchase Checks – by district				
		2010/2011	2011/2012	2012/2013
Amber Valley	Number of Attempts		8	14
	Sales		3	2
	% of sales		37.0%	14.3%
Bolsover	Number of Attempts		2	24
	Sales		0	7
	% of sales		0%	29.2%
Chesterfield	Number of Attempts	41	74	137
	Sales	22	21	49
	% of sales	53.6%	28.0%	35.8%
Derbyshire Dales	Number of Attempts	4	13	12
	Sales	3	4	1
	% of sales	75.0%	31.0%	8.3%
Erewash	Number of Attempts		43	27
	Sales		12	2
	% of sales		28.0%	7.4%
High Peak	Number of Attempts	23	12	16
	Sales	13	4	1
	% of sales	56.5%	33.0%	6.3%
NE Derbyshire	Number of Attempts	7	22	29
	Sales	3	6	12
	% of sales	42.8%	27.0%	41.4%
South Derbyshire	Number of Attempts	10	15	26
	Sales	1	7	3
	% of sales	10.0%	47.0%	11.5%
Total	Number of Attempts	85	189	285
	Sales	42	57	77
	% of sales	49%	30%	27%