

Environment Scrutiny Committee – 18th March 2013

Directorate of the Urban Environment

Rogue Traders and Doorstep Crime

At the meeting on the 5th November the Environment Scrutiny Committee received a report on the work of Trading Standards on Rogue Traders and Doorstep Crime. At that committee it was resolved that the Head of Environmental Health and Trading Standards explore the option of having a register for door to door salespersons with colleagues and legal services and report back to the Committee.

The majority of people who knock on your door are likely to be genuine salespersons. However some are rogue traders, high pressure salespersons and doorstep criminals who call with the intention of overcharging for unsatisfactory goods or services, pressurising people to buy unwanted goods and gaining access to carry out criminal acts.

In the UK, despite the Government having looked at the problem, there is no law to prevent cold calling and therefore having investigated the potential for a byelaw the legal conclusion is that a registration scheme would not be feasible as the relevant tests including that of proportionality could not be met. The Council is also unaware of such schemes being operated elsewhere. Enforcement of current legislation to prevent unfair commercial practises and also rights to cancel a contract made in a consumer's home or place of work which is enforced by Trading Standards is the acknowledged approach..

In response to the problem Dudley Trading Standards in partnership with Safe and Sound (Dudley's Community Safety Partnership) have implemented 4 `No Rogue Trader Zones.`

The main aim of the zones is to prevent incidents of doorstep crime, raise awareness of the activities of rogue traders who target vulnerable people, and give residents the confidence to say no to uninvited callers as a community, therefore, reducing levels and fear of crime in the allocated areas.

Age Restricted Products Enforcement

At the meeting on the 5th November the Environment Scrutiny Committee also received a report on the work of Trading Standards on Age Restricted Products Enforcement. At that committee it was resolved that the Head of Environmental Health and Trading Standards report back to a future meeting of the Committee with a breakdown of the areas in which test sales had taken place and report on the work carried out in relation to the sale of fireworks to underage persons.

a) Test Purchases

Trading Standards Service has a legal duty under the Licensing Act 2003 (the Act) to enforce the provisions of the Act so far as they relate to sales of alcohol made on or from premises to which the public have access and also provides Trading Standards with the power to authorise test purchases to this end.

The Act also states that a person commits an offence if he sells alcohol to an individual aged under 18 and also states that a person who knowingly allows the sale of alcohol to an individual aged under 18 is committing an offence. This includes persons who work at the premises.

Since October 2010 NHS Dudley has funded a full time Age Restricted Products Enforcement Officer post based within Trading Standards to focus on alcohol and tobacco enforcement.

The Trading Standards Service proactively enforces the legislation concerning each product by utilising child volunteers to carry out test purchases at local stores. All test purchase exercises are carried out in partnership with West Midlands Police. Enforcement action by way of Fixed Penalty Notices (FPNs) or through the courts is likely to follow any sale subject to a decision being made in line with the Council's Enforcement Policy.

Below is the breakdown of sales to child volunteers per ward for 2012/2013 to date.

Alcohol

111 premises were test purchased with 12 sales

Breakdown by ward

- Castle & Priory - 12 visits - 3 sales
- Lye & Wollescote - 9 visits - 1 sale
- St James's - 9 visits - 1 sale
- Brierley Hill - 6 visits -1 sale
- Halesowen North - 6 visits - 1 sale
- St.Thomas - 6 visits - 1 sale
- Brockmoor & Pensnett - 4 visits - 2 sales (same premises)
- Wollaston - 3 visits - 2 sales

Tobacco

84 premises were test purchased with 3 sales

Breakdown by ward

- St James's - 6 visits - 1 sale
- Kingswinford North - 5 visits - 1 Sale
- St. Thomas 2 visits - 1 sale

Trading Standards also work with Her Majesty's Revenue and Customs when intelligence is received regarding counterfeit and illicit alcohol and tobacco.

b) Firework Enforcement

This briefing note informs members of the powers and responsibilities Trading Standards service has in its enforcement role regarding the sale of fireworks in the Borough.

There are two main pieces of legislation in relation to fireworks They are the Pyrotechnic Articles (Safety) Regulations 2010 and the Firework regulations 2004.

The Pyrotechnic Articles (Safety) Regulations 2010, enforced by Trading Standards, requires the following;

- that fireworks for use by the general public, must be safe, have been tested by an independent notified body and must be labelled correctly (including the CE mark*).
- the prohibition on splitting larger packs of fireworks to sell individually and also of selling certain fireworks outright (bangers, mini rockets, air-bombs and shells-in-mortar), the fireworks associated with anti-social behaviour.
- The prohibition of the sale of fireworks to under 18's.
- That fireworks must not produce sound levels in excess of 120 dB when discharged and
- The prohibition of fireworks with erratic flight, such as ground spinners and jumping crackers.

The Firework regulations 2004, enforced by the Police, requires the following,

- the prohibition of the possession of fireworks in public places by under 18s;
- the prohibition of the possession of professional display fireworks by any person and
- the prohibition of the use of fireworks during the night hours of 11pm until 7am. Fireworks may be used until midnight on the 5th of November.

To sell fireworks all year a retailer has to have a license issued by the Fire Service. The controls relate to the safe storage of the fireworks. Retailers who are not registered for all year round supply may only sell fireworks from the 15 October to the 10 November; on Diwali (13th November for 2012) and 3 days before, from the 26th of December to the 31st of December, and on Chinese New Year (10th February 2013) and 3 days immediately preceding it.

Regarding the work carried out by Trading Standards in relation to fireworks the service did not carry out any test purchase visits in 2012. This is because the service adopts an intelligence approach to all our enforcement work and no complaints were made or intelligence received regarding under age sales of fireworks in the Borough.