

Appendix 1

ARMAGH CITY, BANBRIDGE AND CRAIGAVON BOROUGH COUNCIL	
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Sent out by:	Head of Environmental Health
Approved by:	Interim Strategic Director (People)
Review Date:	01 October 2018

AMENDMENT RECORD SHEET

Remove and destroy old pages. Insert new pages as indicated.

Revision Number	Page Number	Date Revised	Description of Revision
1	1	22.1.16	Additional legislation

1. INTRODUCTION

Council has a statutory duty to enforce a range of legislation, including some which relates to the sale, use or hire of age restricted products. Specific statutes also require Councils to carry out a programme of enforcement action. As part of this enforcement action the Council includes test purchasing as a measure, to reduce the incidence of offences of the sale, use or hire of harmful or nuisance products to children and young people.

2. AIM/PURPOSE

This policy sets out how the Council will use test purchasing to ensure compliance with legislation controlling the sale, use or hire of age-restricted products, reduce the level of offending in relation to the sale, use or hire of age restricted products and fulfilment of the Councils statutory duty.

3. SCOPE

Council has a statutory duty to enforce legislation which applies to the sale, use or hire of age restricted products. In order to adequately assess compliance with this legislation and also to meet the requirements of Service Level Agreements with partner organisations, Council will use test purchasing to ensure compliance with the relevant legislation.

Test purchasing is carried out by a child under the relevant age restriction relating to the specific product and under the care and supervision of an authorised officer.

The age-restricted products currently within legislation enforced by the Council are:

- Tobacco and Tobacco Products
- Cigarette Lighter Refills Containing Butane
- Aerosol Paint
- Sunbeds

The policy therefore sets out the Councils commitment to the use of test purchasing as means of ensuring compliance with relevant legislation.

4. GENERAL PRINCIPLES

4.1 Relevant Legislation

4.1.1 Tobacco & Tobacco Products

- Health and Personal Social Services (Northern Ireland) Order 1978
- Children and Young Persons (Protection from Tobacco) (Northern Ireland) Order 1991
- The Children and Young Persons (Sale of Tobacco etc.) Regulations (Northern Ireland) 2008

It is currently an offence to sell tobacco or tobacco products to anyone under the age of 18 years.

4.1.2 Cigarette Lighter Refills Containing Butane

- The Cigarette Lighter Refill (Safety) Regulations 1999.

It is currently an offence to sell butane or products with butane as a constituent part to anyone under the age of 18 years.

4.1.3 Aerosol Paint

- The Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 Article 37. It is currently an offence to sell an aerosol paint container to anyone under the age of 18 years.

4.1.4 Sunbeds Act (Northern Ireland) 2011

- It is currently an offence to permit the use, sale or hire of a sunbed or entry into restricted zones within a sunbed premises to a person under the age of 18 years.

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4.2 Achieving Compliance

The Council will use a range of interventions with retailers to encourage compliance with the above legislation, including:

- The provision of information and resources to businesses
- Advisory visits
- Wider publicity to the general public,
- Work with trade bodies and other interest groups and
- Programme of enforcement action to include test purchasing

4.3 Detection of Offences

As an offence is generally only committed when an age restricted product is **sold, used or hired** to a person under the stipulated age, the Council recognises that test purchases are the only reliable method of assessing the extent to which a retailer has acted upon the information and advice provided by the Council and ensured that harmful products are not sold to young persons.

The evidence obtained from a test purchase exercise will be used as the basis of legal proceedings should a decision to prosecute be taken in accordance with the Council's General Enforcement Policy.

The Council requires all test purchase exercises to be carried out in a manner that is both legally correct and fair. To ensure that this is achieved, the Council has also established a test purchase procedure which includes details of how retailers are advised about a test purchase exercise and child protection measures to be followed by the Council.

All authorised officers undertaking test purchase exercises will have received appropriate training in the application of the procedure. Test purchasing will be carried out under the direction of a designated senior Officer.

4.4 Child Protection

The safety and welfare of the young person participating in any test purchase is the most important consideration. All exercises will be risk assessed and controls implemented to safeguard the young person as far as is reasonably practicable. Records of assessments and actions will be maintained.

All officers involved in test purchase exercises will receive appropriate training in Child Protection commensurate with their role and the Council will conduct appropriate checks to ascertain their suitability to work with children in accordance with current regimes.

All exercises will be conducted in accordance with the Council's test purchase procedure and under the direction of a senior officer of the Council.

5. RELATED POLICIES

General Enforcement Policy
Child Protection and Safeguarding Policy

6. EQUALITY SCREENING FORM (Appendix 1A)

Address equality issues as required.

7. DRAFT EQUALITY IMPACT ASSESSMENT AND OTHER IMPACT ASSESSMENTS

Address as appropriate.

Policy Screening Form

Policy Scoping

Policy Title: Policy on the Use of Test Purchasing

Brief Description of Policy (please attach copy if available). Please state if it is a new, existing or amended policy.

This policy sets out how the Council will use test purchasing to ensure compliance with legislation controlling the sale, use or hire of age-restricted products.

Intended aims/outcomes. What is the policy trying to achieve?

The policy sets out the Council's commitment to the use of test purchasing as a means of ensuring compliance with relevant legislation, reducing the level of offending in relation to the sale, use or hire of age-restricted products and fulfilment of Council statutory duty.

Policy Framework

Has the policy been developed in response to statutory requirements, legal advice or on the basis of any other professional advice? Does this affect the discretion available to Council to amend the policy?

Policy is based on the provisions contained in various legislation that requires the use of test purchasing and takes cognisance of any guidance and best practice.

Are any Section 75 categories which might be expected to benefit from the policy? If so, please outline.

No. This policy will have no impact on equality.

Who initiated or wrote the policy (if Council decision, please state). Who is responsible for implementing the policy?

Who initiated or wrote policy? Existing regional policy template amended by EH Department	Who is responsible for implementation? Head of Environmental Health
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Are there any factors which might contribute to or detract from the implementation of the policy (e.g. financial, legislative, other)?

None foreseen.

Main stakeholders in relation to the policy

Please list main stakeholders affected by the policy (e.g. staff, service users, other statutory bodies, community or voluntary sector, private sector)

Retailers/supplier of age-restricted products.

Are there any other policies with a bearing on this policy? If so, please identify them and how they impact on this policy.

General Enforcement Policy- this policy will be followed by Officers when considering any follow up action and in particular any formal enforcement action when offences have been detected as a result of test purchasing.

Child Protection and Safeguarding Policy – this policy will be followed by Officers in relation to the young persons who assist them in any test purchasing.

Available Evidence

Council should ensure that its screening decisions are informed by relevant data. What evidence/information (both qualitative and quantitative) have you gathered to inform this policy? Specify details for each of the Section 75 categories.

Section 75 category	Evidence
Religious belief	N/A
Political opinion	N/A
Racial group	N/A
Age	N/A
Marital status	N/A
Sexual orientation	N/A
Men and women generally	N/A
Disability	N/A
Dependants	N/A

Needs, experiences and priorities

Taking into account the information gathered above, what are the different needs, experiences and priorities of each of the following categories in relation to this particular policy/decision?

Section 75 category	Needs, experiences and priorities
Religious belief	N/A
Political opinion	N/A
Racial group	N/A
Age	N/A
Marital status	N/A
Sexual orientation	N/A
Men and women generally	N/A
Disability	N/A
Dependants	N/A

Screening Questions

1. What is the likely impact on equality of opportunity for those affected by this policy for each of the Section 75 categories?

Category	Policy Impact	Level of impact (Major/minor/none)
Religious belief	None	None
Political opinion	None	None
Racial group	None	None
Age	None	None
Marital status	None	None
Sexual orientation	None	None
Men and women generally	None	None
Disability	None	None
Dependents	None	None

2. Are there opportunities to better promote equality of opportunity for people within the Section 75 categories?

Category	If yes, provide details	If no, provide reasons
Religious belief	None	None
Political opinion	None	None
Racial group	None	None
Age	None	None
Marital status	None	None
Sexual orientation	None	None
Men and women generally	None	None
Disability	None	None
Dependents	None	None

3. To what extent is the policy likely to impact on good relations between people of different religious belief, political opinion, or racial group?

Category	Details of Policy Impact	Level of impact (major/minor/none)
Religious belief	None	None
Political opinion	None	None
Racial group	None	None

4. Are there opportunities to better promote good relations between people of different religious belief, political opinion or racial group?

Category	If yes, provide details	If no, provide reasons
Religious belief	None	None
Political opinion	None	None
Racial group	None	None

Multiple Identity

Generally speaking, people fall into more than one Section 75 category (for example: disabled minority ethnic people; disabled women; young Protestant men; young lesbian, gay and bisexual people). Provide details of data on the impact of the policy on people with multiple identities. Specify relevant s75 categories concerned.

N/A

Disability Discrimination (NI) Order 2006

Is there an opportunity for the policy to promote positive attitudes towards disabled people?

N/A

Is there an opportunity for the policy to encourage participation by disabled people in public life?

N/A

Screening Decision

A: NO IMPACT IDENTIFIED ON ANY CATEGORY – EQIA UNNECESSARY

Please identify reasons for this below

This is a technical document which implements legislative requirements.

B: MINOR IMPACT IDENTIFIED – EQIA NOT CONSIDERED NECESSARY AS IMPACT CAN BE ELIMINATED OR MITIGATED

Where the impact is likely to be minor, you should consider if the policy can be mitigated or an alternative policy introduced. If so, EQIA may not be considered necessary. You must indicate the reasons for this decision below, together with details of measures to mitigate the adverse impact or the alternative policy proposed.

C: MAJOR IMPACT IDENTIFIED – EQIA REQUIRED

If the decision is to conduct an equality impact assessment, please provide details of the reasons.

Timetabling and Prioritising

If the policy has been screened in for equality impact assessment, please answer the following questions to determine its priority for timetabling the equality impact assessment.

On a scale of 1-3 with 1 being the lowest priority and 3 being the highest, assess the policy in terms of its priority for equality impact assessment.

Priority criterion	Rating (1-3)
Effect on equality of opportunity and good relations	
Social need	
Effect on people's daily lives	

The total rating score should be used to prioritise the policy in rank order with other policies screened in for equality impact assessment. This list of priorities will assist the council in timetabling its EQIAs.

Is the policy affected by timetables established by other relevant public authorities? If yes, please give details.

Monitoring

Effective monitoring will help the authority identify any future adverse impact arising from the policy. It is recommended that where a policy has been amended or an alternative policy introduced to mitigate adverse impact, monitoring be undertaken on a broader basis to identify any impact (positive or adverse).

Further information on monitoring is available in the Equality Commission's guidance on monitoring (*insert link*).

Identify how the impact of the policy is to be monitored

Policy will be reviewed should issues arise.

Approval and Authorisation

A copy of the screening form for each policy screened should be signed off by the senior manager responsible for that policy. The screening recommendation should be reported to the relevant Committee/Council when the policy is submitted for approval.

Screened by	Position/Job title	Date
Gillian Topping	Head of Environmental Health (Banbridge DC) & Martina McNulty, GCEHO, SGEHC	29.12.14
Approved by	Position/Job Title	Date
Roger Wilson	Chief Executive	06.01.15

Please forward a copy of the completed form with policy attached to XXX Officer who will ensure that screening forms and policies are available on the Council website.

This officer is also responsible for issuing reports on a quarterly basis on those policies “screened out for EQIA”. This allows stakeholders who disagree with this recommendation to submit their views. In the event of any stakeholder disagreeing with the decision to screen out any policy, the screening exercise will be reviewed.