

13. FIXED PENALTY PROVISIONS - TOBACCO AND PRIMARY MEDICAL SERVICES (SCOTLAND) ACT 2010

The Council Executive considered a report (copies of which had been circulated) by the Environmental Health & Trading Standards Manager seeking authorisation for the Head of Planning and Economic Development to apply procedures in respect of the issuing of Fixed Penalty Notices (FPNs) for certain offences under the Tobacco and Primary Medical Services (Scotland) Act 2010.

The report advised that on 1st April 2011, the Tobacco and Primary Medical Services (Scotland) Act 2010 introduced new offences in respect of the sale and supply of tobacco and tobacco products and gave local authorities the power to issue FPNs in relation to said offences. The main purpose of the Act was to make tobacco less attractive and less accessible to children and young people under eighteen.

The Scottish Government had recently published 'Tobacco Sales – Guidance for Local Authorities – Enforcement Guidance and Protocols', providing guidance to local authorities on the various aspects of enforcement of the Act, which included a suggested standard template FPN. Some of the key aspects covered were:

- That, as a general rule, FPNs would be issued in relation to all relevant offences under the Act. In limited circumstances, the investigating officer may choose not to issue an FPN but to recommend the submission of a report to the Procurator Fiscal.
- The development of procedures for obtaining authorisation for exemption from offences of purchasing or attempting to purchase tobacco products or cigarette papers under Section 5 (2) of the Act.
- To ensure that a risk assessment to avoid any risk to the welfare and safety of the young volunteer was carried out.
- To identify the Environmental Health & Trading Standard Manager (or nominee) as the 'deciding official' in the consideration of any 'representations' made by the recipient of a FPN.

In conclusion, approval was sought to change the amend the Scheme of Delegation to Officers to authorise the Head of Planning and Economic Development to issue FPNs, withdraw FPNs, put in place procedures to consider 'representations' made in respect of FPNs and authorise officers from Environmental Health & Trading Standard to enforce the relevant provisions of the Tobacco and Primary Medical Services (Scotland) Act 2010.

Decision

To approve the terms of the report.