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John Glen
Scottish Executive Health Department
Tobacco Control Division
3 E(R) St Andrew's House
Regent Road
EDINBURGH

Dear Sir

Towards a Future Without Tobacco

The Society of Chief Officers of Trading Standards in Scotland, SCOTSS, is the professional body representing the lead officers for Scottish Local Authority Trading Standards Services. On behalf of the Society I welcome the opportunity to respond to the recommendations outlined in the report of the Smoking Prevention Working Group published in November 2006.

Trading Standards professionals have been committed to reducing Young People's access to tobacco products in a number of ways. Both through our enforcement role in relation to a range of age restricted products and through engagement in local and national initiatives such as Community Health Forums and more recently work with the Scottish Tobacco Control Alliance to develop the conference "Reducing Young People's Access to Tobacco". A working group formed as a result of that conference aims to put together a good practice guide for enforcers, retailers and those involved in the smoking cessation sector to exchange information that will identify good practice and ensure more targeted and consistent work to tackle abuse of tobacco products amongst young people in Scotland.

SCOTSS welcome and endorse the findings of the Smoking Prevention working group. Below you will find comments in relation to the most relevant recommendations where there is a professional interest for Trading Standards.

I trust that you find the comments constructive and on behalf of SCOTSS I would like to offer continued support to the Executive in helping to prevent access to tobacco products amongst under age, vulnerable groups.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ken Daly', with a large loop at the end.

Ken Daly
Chairman SCOTSS



The Society of Chief Officers of Trading Standards in Scotland
A Section of the Trading Standards Institute

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Responses to report recommendations

Research

Recommendation 3 & 4 SCOTSS would endorse research into the knowledge, attitude and behaviour about the use of tobacco amongst 13-15 year olds. In particular evidence about where in Scotland tobacco products are most commonly purchased and how much of it is from over the counter sales as opposed to smuggled or possibly counterfeit tobacco would be useful as this is an area currently difficult to quantify.

Reducing Availability

Recommendation 5 The Society strongly supports the recommendation to ensure greater efforts to enforce the prevailing age of purchase.

- SCOTSS is committed to promoting the active use of test purchasing by trading standards staff and trained volunteers in local authorities. The Working Group are asked to note that it is only since the decision by the Lord Advocate to allow the use of volunteers in 2005 that Local Authorities have been able to use test purchase as an enforcement tool. Since then 12 Authorities have undertaken test purchases and 9 reports recommending prosecution for the sale of tobacco have been submitted to the procurator fiscal.
- As the professional society representing members in all 32 of Scotland's local authorities SCOTSS recognises the individual challenge some face providing test purchasing. Therefore inter-authority agreements to increase the flexibility and resources to all in this sector should be encouraged.
- I would further ask the working group to recognise the role that trading standards can play in trader education and working with education and health promotion agencies to promote a culture that abhors tobacco sales and use amongst young people. Examples can be provided to illustrate good practice here.
- The Society would welcome further support for the service through education and training, not only for local authority officers but for others involved in the prosecution process.
- I would greatly welcome any distinct support for the role that trading standards play to be promoted to local authority leaders and to the enforcement community.

Recommendation 6 SCOTSS would welcome any plans to introduce negative licensing for retailers proven to have disregarded the law in relation to tobacco supply. This would be a useful tool that would enable effective targeted enforcement and I believe have reverberations throughout the retail community.

Of the statutes enforced by trading standards there is a precedent for negative licensing already in the Estate Agents Act 1979. This has proven a useful deterrent in a market sector where there is a high degree of regulation.

Consideration must be given to the time period set for negative licensing proposals and if it is implemented would it affect one branch of a store chain or all branches within a particular region.

Recommendation 7 Trading Standards would welcome amendment of current legislation to raise the minimum age for purchase to 18. From a test purchasing

perspective it will be easier to find and train volunteers in the 15-17 age group than is presently the case with 13-14 year olds.

Whilst the importance of a transition period is appreciated thought should also be given to the challenges of enforcement within that period.

Recommendation 12 SCOTSS would strongly endorse research into the extent of use of smuggled or counterfeit tobacco as indicated in the response to recommendation 3 &4. The group may wish to note the role that Trading Standards has in relation to enforcement of counterfeit or falsely described products.

As with test purchasing the service would welcome any support for an enhanced profile for this role. The HM Treasury report published as the Gowers Review of Intellectual Property (HMSO Dec 2006) identified some £5m to be distributed to trading standards for the enforcement of criminal copyrighted infringement. I understand that there has been some disbursement of a proportion of this sum to the Scottish Executive and the working group might wish to identify counterfeit tobacco products as possible positive use for the funding.

The group are further asked to note that evidence might show that increase on the duty of tobacco will be likely to increase the amount of counterfeit tobacco in circulation. We would ask for consideration to be given to the enforcement implications inherent in this.

Recommendation 19 Without commenting on the efficacy of proposals to prohibit display of tobacco I note that no consideration is given in the report to how this might be controlled. It would seem to sit within the scope of items regulated by trading standards and thus would suggest that be added to our enforcement portfolio.

**RESPONDENT INFORMATION FORM
CONSULTATION ON SMOKING PREVENTION WORKING GROUP
REPORT: “TOWARDS A FUTURE WITHOUT TOBACCO”**

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1. Are you responding

(b) **on behalf of** a group/organisation ✓

ON BEHALF OF GROUPS OR ORGANISATIONS:

3. The name and address of your organisation *will be* made available to the public (in the Scottish Executive library and/or on the Scottish Executive website). Are you also content for your **response** to be made available?

Yes ✓

SHARING RESPONSES/FUTURE ENGAGEMENT

4. We will share your response internally with other Scottish Executive policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for the Scottish Executive to contact you again in the future in relation to this consultation response?

Yes ✓