

WEST NORTHAMPTONSHIRE COUNCIL TRADING STANDARDS SERVICE

2021-22 Plan regarding Enforcement of Section 54 of the Anti-Social Behaviour Act 2003 - Sale of aerosol spray paints to under 16s

Introduction

Section 32 of the Clean Neighbourhoods & Environment Act 2005 places a duty on the local weights & measures authority (Trading Standards Service) to consider, at least once in every period of twelve months, the extent to which it is appropriate for the authority to carry out in their area a programme of enforcement action in relation to section 54 of the Anti-Social Behaviour Act 2003 (which prohibits the sale of aerosol paint containers to a person under the age of sixteen) and to the extent that they consider it appropriate to do so, carry out such a programme.

Background

Graffiti is the gateway to a plethora of other problems – anti-social behaviour and criminality – and brings with it a huge social cost.

Nationwide, the bill to the council tax payer for the removal of graffiti is £1 billion a year. The bill to clear up graffiti on the London Underground alone amounts to £10 million a year.

Locally, the bill to clean up Northamptonshire each year runs into hundreds of thousands of pounds.

Where you find graffiti you invariably find neglect – it occurs in an area which isn't cared for or it occurs in an area where members of the public feel uncared for and so feel it is not worth reporting. Where you find graffiti you invariably find anti-social behaviour issues like littering, street drinking and drug use. And you also invariably find other examples of criminal damage, like glass broken in bus shelters or other petty vandalism.

2020-21

Following the trend of previous years, the Service has not received any complaints alleging the sale of spray paints to children under 16. Therefore, no test purchasing exercises were arranged.

2021-22

West Northamptonshire council trading standards service will:

- ❖ Respond to any complaints alleging the sale of spray paints to under 16s by advising retailers of their legal responsibilities and good practice to not sell spray paints to young people under the age of 16.

- ❖ Liaise with Northamptonshire Police to gain intelligence around under age sales of spray paints and where appropriate work with relevant partners to reduce the incidence of graffiti within West Northamptonshire.
- ❖ Carry out test purchasing exercises using volunteer underage test purchasers in response to any complaints or local intelligence.
- ❖ Investigate and take appropriate enforcement action in respect of offences under Section 54 of the Anti-Social Behaviour Act 2003 in accordance with our prosecution policy.
- ❖ Make available a retailer training pack covering all age restricted products.
- ❖ Where appropriate make use of the media to publicise relevant issues.
- ❖ Continue to promote PASS accredited proof of age cards to retailers and also the use of the 'Challenge 25' scheme, whereby businesses are advised to ask for PASS accredited proof of age if the purchaser looks under 25.

Enforcement background

Graffiti is usually regarded as criminal damage under section 1(1) of the Criminal Damage Act 1971. Councils may issue a fixed penalty notice to deal with an offence under section 1(1) "which involves only the painting or writing on, or the soiling, marking or other defacing of, any property by whatever means" (Section 43 of the Anti-Social Behaviour Act 2003). Section 1 of the Criminal Justice Act 2003 extends the definition of prohibited articles under section 1 of the Police and Criminal Evidence Act 1984 (PACE) so that it includes articles made, adapted or intended for use in causing criminal damage. It does this by amending the list of offences in section 1(8) of PACE to include offences under section 1 of the Criminal Damage Act 1971. The effect is to give police officers power to stop and search where they have reasonable suspicion that a person is carrying, for example, a spray paint can which they intend to use in producing graffiti.