

A significant improvement appears to have been achieved by high-level enforcement, whereas education alone has had no discernible effect.

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Under-age sales: Making retailers count the cost

The number of young people smoking cigarettes has not followed hoped-for trends. In 1992, the *Health of the Nation* White Paper set a target to reduce smoking prevalence among 11–15 year olds by at least 33% from a 1988 baseline of 8%. In 1994, however, prevalence of regular smoking in this age group had risen to 12% (Diamond & Goddard, 1995).

This OPCS survey also ascertained the percentage of children, by age, in England to whom retailers had refused to sell cigarettes at least once during the previous 12 months.

These investigations were extremely relevant to an initiative that began in Kingston-upon-Thames in 1990.

The decision to get tough

In order to combat the supply of tobacco products to children, the Council of Kingston-upon-Thames decided in May of that year that its Trading Standards Department would enforce the Children and Young Persons Act 1933. Section 7 of this Act created an offence for selling 'to a person apparently under the age of sixteen years any tobacco or cigarette papers, whether for his own use or not'. This was a 'strict liability' offence; that is to say, assuming the court believed the child to be apparently under the age of sixteen, then the prosecution only needed to prove that the sale had taken place.

There was cross-party support for this enforcement exercise, which would be carried out with the assistance of a young volunteer aged about 13 to make test purchases, and only one member voted against it. Members of the Council also agreed that the Chief Trading Standards

Officer should prosecute in all instances where he considered it appropriate, and if necessary the volunteer test purchaser should attend court to give evidence. It was noted that this type of enforcement action, which had been pioneered in Liverpool, had the support in principle of the National Society for the Prevention of Cruelty to Children and the child protection organisation 'Child Line'.

The first test: 23 August 1990

Trading Standards Officers calculated that there were approximately 400 premises in the Borough likely to sell cigarettes. It was decided to select 10% of these on a random basis, while ensuring that these were a good sample of all the different types of premises that sold tobacco products, and covered all the Borough. A 13-year-old girl volunteered to act as a test purchaser. The volunteer was selected as being representative of her age (her age was later correctly assessed independently by a local teacher); she wore no make-up, or clothes that would make her look older, during the purchasing, and her instructions were to tell the truth should any retailer ask her questions. She was accompanied at all times by a Trading Standards Officer posing as an ordinary shopper.

On Thursday 23 August 1990 the 40 selected premises were visited and 18 (45%) sold cigarettes to the volunteer.

All 400 premises identified as retailers of tobacco products in the Borough were then sent a letter advising them of the results of the survey and warning that should follow-up test purchases reveal offences, then prosecutions would

The 13-year-old test purchaser was required to tell the truth should any retailer ask her questions.

be taken. A poster advising that it was illegal to supply cigarettes to children under 16 was also enclosed for retailers to display, and there was a high-profile press campaign to assist with this educational process.

The second test: 22/23 October 1990

15 out of the 28 shops visited for the second time in 1990 sold cigarettes to the volunteer.

On 22 and 23 October 1990, test purchases were again attempted by the same volunteer, dressed in the same manner, at 28 of the 40 premises. It was not possible to visit all the 40 premises for a number of reasons, including lack of time and shops being closed. Of the 28 visited, 15 (53%) sold cigarettes to the volunteer. Premises that had sold on the first occasion did not necessarily sell on the second, and vice versa.

Fourteen of the 15 retailers were prosecuted at Kingston Magistrates Court. On 27 March 1991 four retailers pleaded guilty and were fined £50 each. On 29 May 1991 two retailers were found guilty after a trial, and subsequently the remaining eight changed their plea to guilty. They were fined, on average, £150 each. These cases were given a high profile in local newspapers.

On 27 June 1991 the Children and Young Persons (Protection from Tobacco) Act 1991 received the Royal Assent. This Act . . .

- raised the level of fines;
- required retailers to display a warning notice that it is illegal to sell tobacco products to children under the age of sixteen;
- required local authorities to consider annually the extent to which it was appropriate for them to carry out an enforcement programme;
- created an offence for selling non-prepacked cigarettes;
- re-worded the offence section to clarify that this was a strict liability offence.

However, it included a defence for retailers if they could demonstrate that they had taken 'reasonable precautions' and shown 'due diligence' in trying to avoid committing the offence.

The third test: 22 August 1995

On 22 August 1995, in order to ascertain the medium-term effect of the enforcement work carried out in 1990, it was decided to revisit the same premises and again attempt to test-pur-

chase cigarettes.

It was not, however, possible to visit all the premises previously tested. Some of the shops had closed or changed hands, and indeed different people would be serving our new test purchaser. The female test purchaser on the second occasion, although operating under the same instructions as the first, was 12 instead of 13, and not so tall. For these reasons it is accepted that we cannot draw definite conclusions with respect to any change in the retailers' attitudes.

A significant change?

The results do, however, strongly suggest that there has been a significant change in retailers' responses to requests for cigarettes by under-age children. In the summer of 1990, 45% of those tested in the Borough of Kingston were prepared to sell cigarettes to a 13-year-old girl. Five years later, and with a history of well-publicised enforcement work, none of the 29 shops visited was prepared to sell cigarettes to a 12-year-old girl.

The following table compares the refusal rates nationally (N) with the results of the tests carried out in Kingston (K) as described above.

	12-year-old refused		13-year-old refused	
	N	K	N	K
1990	52%		44%	55%
1994	42%		38%	—
1995	—	100%	—	—

Again, it is accepted that care must be taken when comparing these figures: test purchases in 1990 by a 13-year-old form the only direct comparison, and with the OPCS survey it is likely that, if challenged, the children may not have told the truth about their age, whereas in Kingston the test purchasers always told the truth. Nevertheless, in Kingston, having started from about the national average, a significant increase in instances of retailers refusing to sell cigarettes to children in the 12–13 age range appears to have been achieved by high-level enforcement, whereas education alone has had no discernible effect.

Reference

Diamond A. & Goddard E. (1995). *Smoking Among Secondary Schoolchildren in 1994*. Office of Population Censuses and Surveys, Social Survey Division. HMSO.

The 1995 results strongly suggest a significant change in retailers' willingness to sell to under-age children.

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The Kingston experiment has prompted some thoughts about the degree to which adults can hinder or facilitate young people's access to restricted consumables. The data are taken from *Young People in 1996* and refer to Year 10 pupils unless otherwise stated.

Smoking

18% of the boys and 23% of the girls reported having bought their last cigarette from a shop (which could be a filling station). This is well over half the 'smoking' population.

It is possible that some of these purchases were made by older friends using the young person's money (but see young people's purchase of National Lottery products, below).

In all age groups, more girls than boys claim to have bought cigarettes from a shop: 4.8% in Year 8 and 14.2% in Year 9 (both of which groups include 13-year-olds).

These figures cannot meaningfully be compared with the Kingston data, for two reasons:

- The Kingston test purchaser was bound by Home Office guidelines, and not allowed to lie about her age or use artifice to make herself look older, whereas the young people in our sample may well have done both of these things;
- the Kingston survey revealed the percentage of outlets serving or refusing their test purchaser, but not the percentage of young people using these outlets. A single shop, if it became known to have a 'relaxed' attitude to under-age sales, could supply the needs of a number of young smokers in the vicinity.

We investigated this local effect by discovering the percentage of female 'smokers' that reported buying their most recent cigarettes from a shop, broken down by school. The analysis for the 81 schools looked like this:

Smokers buying from a shop	Schools
50+%	1
40-49%	9
30-39%	19
20-29%	29
10-19%	19
<10%	4

We hope to report more fully soon on the apparent link between the percentage of smokers in these school-based groups and the apparent

Adults as 'gatekeepers'

ease with which they are able to purchase cigarettes from a shop.

Gambling

The following percentages spent their own money on either the National Lottery or 'Instants' during the previous 7 days.

	Boys	Girls
National Lottery	15.9	10.3
'Instants'	13.7	7.5

They were also asked if a parent or adult friend actually paid over the money, thereby making the purchase legal. The following percentage bought the tickets or cards themselves, or got a friend under 16 years of age to do so:

	Boys	Girls
National Lottery	8.3	5.7
'Instants'	10.4	4.0

So we see from these figures that more than half the National Lottery purchases were made by themselves or another under-age person, and the proportion able to buy 'Instants' was higher still.

Alcoholic drink

During the previous week, about 70% of the boys and 60% of the girls had consumed some alcoholic drink.

They were asked if they had used any of the following sources:

	Boys	Girls
Supermarket	5.8	3.7
Off-licence	17.7	14.3
Pub or bar	8.1	9.9
Disco or club	6.8	8.4

These figures have shown little change over the past five years.

We conclude by noting that young people are attracted to all these 'vices' because many adults enjoy them, and that the degree to which they are enabled to participate in them is influenced by just a few of these adults.

Does enforcement of the law actually affect smoking levels?

More than half the National Lottery purchases were made by themselves or another under-age person.