

## Agenda Item

### Report to Crime & Disorder Select Committee

### Report of Director of Public Health

15 October 2015

## ANNUAL OVERVIEW OF THE TRADING STANDARDS & LICENSING SERVICE

The Trading Standards and Licensing Service provides an important regulatory function, carrying out a range of duties aimed at protecting consumers and reputable businesses.

This protection is provided in relation to virtually the full range of personal and household goods and services, from the purchase of daily necessities to the arrangement of a mortgage.

Only in a safe and fair trading environment, which protects both consumers and reputable business activity, can the local economy succeed and flourish.

### Summary

The purpose of this report is to present Members with an overview of the Council's Trading Standards & Licensing Service over the last year, highlighting key achievements and future challenges.

1. **Appendix 1** gives an overview of the Trading Standards & Licensing Service and key work areas.
2. **Appendix 2** gives an overview of key achievements during 2014 -15.
3. **Appendix 3** gives a summary of key challenges faced during the year and reference to some of the emerging issues which are likely to impact on future delivery and performance of services.
4. Officers will present this overview of performance for discussion with the Committee.

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## APPENDIX 1

### Overview of the Trading Standards & Licensing Service

The work of the Trading Standards & Licensing Service aims to promote open and competitive markets whilst empowering consumers making it easier for them to resolve problems. Only in a safe and fair trading environment, which protects both consumers and reputable business activity, can the local economy succeed and flourish.

The key activities undertaken include:

- Pro-active, intelligence led market surveillance work to ensure legal requirements are met and consumers can shop with confidence. This includes sampling and testing of goods, licensing conditions checks and carrying out business inspections to identify problems before they cause harm.
- Advice and support services for businesses to ensure that they can get things right at an early stage and meet their legal obligations. This includes the testing and certification of weighing and measuring equipment and providing tailored legal advice.
- Providing specialist advice and information to consumers to enable them to make sound, safe and well informed choices.
- Responding to complaints from local consumers and businesses and investigating breaches of consumer protection and licensing legislation to help prevent harmful and hazardous business practices, prevent detriment to consumers and reputable business and to ensure public safety.
- Processing and issuing a range of licences, registrations and permits across a wide and diverse range of activities.

The overarching goals of Stockton's Trading Standards and Licensing Service can be described as follows:

- To create informed confident consumers
- To create informed successful businesses
- To ensure a safe and fair trading environment

Trading Standards & Licensing produces an annual service plan which provides an overview of key processes, priorities, successes, challenges and targets. Members can view this at <https://www.stockton.gov.uk/media/5348/service-plan-15-16.pdf>

The Service's key areas of responsibility can be shown as follows:

Responsibility	Description
Fair Trading	Tackling counterfeiting, doorstep selling, disrupting the informal economy and dealing with misleading statements about the price, quality or description of goods and services
Business Advice	Providing advice and assistance to businesses on all aspects of Trading Standards & Licensing legislation to raise their awareness and help them comply with their legal responsibilities
Consumer Advice	Advice and assistance for consumers with problems and disputes arising from the supply of consumer goods and services
Product Safety	Monitoring consumer goods to ensure that they are as safe as possible and do not present a risk to health
Age Restricted Sales	Ensuring certain age restricted products, for example alcohol, tobacco, videos, solvents, butane lighter fuel and fireworks, are not supplied to children
Food Standards	Ensuring that food is correctly described and labelled throughout the supply chain, and that compositional and nutritional standards are met
Weights and Measures	Work relating to the accuracy of weighing and measuring equipment in use for trade and the accuracy of quantity declarations made on products
Consumer Credit	Monitoring the credit licensing regime and ensuring transparency in credit transactions, documentation and advertisements
Fertilisers and Animal Feed	Registration and inspection of designated animal feed establishments and ensuring that both fertilisers and animal feeds are correctly labelled and safe to use
Road Traffic	Work regarding unroadworthy vehicles, overloaded goods vehicles and weight restricted areas
Specialist Services	Metrology and calibration centre <sup>1</sup> Product testing laboratory <sup>1</sup>
Licensing Act	Licensing of alcohol, regulated entertainment and late night refreshment
Gambling Act	Licensing of gambling activities including casinos, bingo, betting shops, gaming machines and lotteries
Transportation Licensing	Vehicle, driver and operator licences for both hackney carriage and private hire vehicles
Other Licensing	Includes charitable collections and fund raising, skin piercing, hairdressers, street trading, sex shops, scrap metal dealers, explosives, poisons, animal welfare establishments and zoos

<sup>1</sup> A specialist centre, Tees Valley Measurement, is jointly funded by Stockton, Middlesbrough, Redcar and Cleveland and Hartlepool Trading Standards Services and is subject to a formal written agreement. The Centre provides specialist metrology facilities and a screening laboratory for product testing.

The Service does not operate in isolation and works with a number of key partners both regionally and nationally. This is important because illegal trading activity often stretches across local authority boundaries, particularly given the technological age that we live in. Some of the main partners include:-

### **North East Trading Standards Association (NETSA)**

NETSA is a strategic partnership made up of the 12 local authorities throughout the north east region. As well as being a forum to share knowledge, information and resources, NETSA co-ordinates regional and national priorities to enhance service provision across the region.

NETSA has an executive providing overall governance and also has sub-groups focussed on areas such as fair trading, product safety, metrology and consumer advice, which undertake regional projects to protect and improve the health, wellbeing and safety of local communities whilst supporting businesses in achieving better regulatory outcomes.

NETSA reports to the North East Public Protection Partnership (NEPP).

### **Scambusters North East**

Scambusters is a small regional team of enforcement officers, funded by central government, that can be tasked to tackle level 2 (regional) and level 3 (national) criminality. Whilst the team is funded by BIS (Department for Business, Innovation & Skills), general governance is provided through the NETSA Executive.

Recent successes have included participation in a national operation into the sale of illicit tobacco, launched by Public Health England with the support of the Trading Standards Institute in April 2014. This culminated with the development of a regional intelligence package and the objective selection of target premises during the operational phase. With the assistance of a tobacco dog, the operation resulted in the seizure of significant quantities of illicit tobacco. This operation showcased the range of resources available and was an excellent example of regional intelligence led enforcement work.

### **The Illegal Money Lending Team (IMLT)**

The national IMLT is operated by Birmingham City Council and takes action against loan sharks that can blight local communities.

Illegal money lending is common throughout the country, particularly on the most deprived estates and is deeply damaging to both victims and communities, entrenching disadvantage and poverty and is closely linked to anti-social behaviour and crime. Illegal lenders' operations are usually underpinned by intimidation and violence used to enforce collection.

The national IMLT, funded by BIS, has been set up to tackle illegal lending by taking enforcement action against illegal lenders throughout the country and supporting victims in accessing debt advice to rebuild finances and make the transition to affordable legal credit.

Stockton Council is committed to stopping loan sharks and has delegated authority to officers from Birmingham City Council to act throughout the Borough in identifying, investigating and prosecuting loan sharks. The Council, along with key community groups and partners, has also recently (November 2014) signed the Stop Loan Sharks Charter to provide a cohesive community pledge that loans sharks will not be tolerated within local communities.

## **Trading Standards & Licensing Performance Report 2014/15**

Each year we set key activities and performance targets for the year ahead which address the needs and priorities of the users of the service. These priorities are identified through various methods including consultation surveys, analysis of request for service and results of proactive enforcement work. We monitor our performance on a monthly basis and produce an annual performance report.

We will strive to achieve these key aims through a number of key service objectives. These, along with some of our key achievements against our targets and actions are outlined below:

### **To empower consumers by providing high quality advice and information**

- ✓ The satisfaction level with users of our Consumer Advice Service remained exceptionally high with 100% of users very or fairly satisfied with the service they received.
- ✓ We received over 3575 contacts into the Service with a further 1469 Stockton residents contacting the Citizens Advice Consumer Service.
- ✓ The top three areas of consumer complaint were about home maintenance, second hand cars and food and drink.
- ✓ We helped consumers to recover in excess of £151,000 in redress from businesses that can be fed back into the local economy.

### **To ensure fair competition through goods and services being safe, correctly described, priced and measured**

- ✓ We tested or examined over 2210 consumer items. This included checks on accuracy of petrol pumps and beer meters in pubs, safety assessment of toys and electrical items.
- ✓ We carried out a total of 1169 trading standards visits to business premises in the Borough. During these visits we carried out a variety of activities including checks on the accuracy of petrol pumps on garage forecourts, checks on beer meters in pubs, accuracy of weighing equipment in retail shops, and accuracy of pricing information and special offers or promotions and delivered advice to business on how to meet legal requirements.

### **To promote the health and well-being of the community through initiatives concerning alcohol, tobacco, food and nutrition**

- ✓ We took 297 food samples for testing, some of these were part of the national Food Standards Agency sampling project. Checks included meat species testing of shish kebabs, shwermas; meat and fish contents in ready meals, burgers and sausages; accuracy of sugar claims on low sugar and sugar free products; validity and accuracy of health and nutritional claims on food; accuracy of ABV declarations on bottled beers, wines and liqueurs. Issues were found with substitution of lamb with beef; fat claims on cheese and other products and the lack of allergen warnings.

- ✓ A total of 8 test purchase exercises were undertaken to ensure retailers were not selling age restricted products to children. A total of 60 attempts were made with 6 sales made to our underage volunteers. These were 4 alcohol; 1 cigarettes and 1 DVD rated 18. Encouragingly the number of complaints and intelligence reports about retailers selling age restricted products to children has dramatically reduced, helped in no small part by our proactive and successful 'We Don't Overlook Underage Sales' campaign.

### **To promote good business practice and help new and established businesses to flourish**

- ✓ In December 2014 new rules came into force requiring takeaways and other caterers selling ready to eat food to give allergen information at the point of sale. We issued guidance on food safety issues, cross contamination and supply of information around allergens to over 180 outlets in the Borough and face to face advice is being delivered during inspection visits.
- ✓ In April 2015 new rules on point of sale display for cigarettes in small shops came into force. Larger shops and supermarkets have had covered displays in place for a number of years but this requirement has now been extended. Advice was issued to almost 180 small businesses outlining the new rules and recent checks has shown that most traders have followed this advice.
- ✓ We visited local Letting Agents to ensure that they were aware of new rules in force in October 2014 requiring membership of an official redress scheme.

### **To disrupt traders operating in the informal economy especially those that target the vulnerable**

- ✓ In the year to December 2014, the Service brought 8 prosecutions; issued 25 simple cautions, and brought 3 civil proceedings for undertakings and orders relating to breaches of legislation. Fines in excess of £1750 were imposed by the courts, as well as prison sentences being imposed in 3 separate cases. Costs in excess of £3800 were also awarded.
- ✓ Cases included a rogue kitchen fitter who took over £42,000 from customers but failed to deliver the new kitchens he promised. He was jailed for a total of 30 months for fraud offences. Another builder took advantage of two local consumers, taking over £9000 from them for work he failed to complete. He was jailed for 12 months for fraud offences.
- ✓ A region wide fraud was also uncovered by our officers. Several associates targeted consumers across the region, many of whom were vulnerable and living alone. They promised to apply a micro porous wall coating product to homes but took money up front and then disappeared without completing any work. Officers liaised with a specialist team working with the three regional Police forces in order to ensure that the case was successfully brought to trial. The ring leader was given a 3 ½ year prison sentence for fraud offences and three associates were given prison sentences ranging from 3 months to 27 months.
- ✓ In addition two licensed drivers were prosecuted for operating illegally after they were caught taking flag down fares when they were not licensed or insured to do so. An unregistered tattooist was also prosecuted when he set up an illegal studio in Stockton.

### **To ensure a fair, transparent and effective licensing regime**

- ✓ We received a total of 37 applications under the licensing Act for premises supplying alcohol or providing regulated entertainment. 22 of these were for new licences and 15 were for variations to existing licences. This resulted in 14 hearings before the Licensing Committee, with members granting 13 licences but imposing additional conditions in some cases. 1 Application was refused.
- ✓ We issued 122 Charity Collection Permits which resulted in donations of £108,857 from local residents.
- ✓ 35 reports, regarding taxi licensing, were heard by the Licensing Committee, mainly regarding conduct and behaviour of licensed drivers. This resulted in the revocation of 8 driver's licences, 2 written warnings and 3 driver suspensions. In addition 13 new driver applications were granted and 2 were refused. 7 reports were deferred.

### **To reduce crime and disorder in licensed premises and vehicles**

- ✓ Over 26 out of hours enforcement exercises were undertaken with checks carried out on illegal plying for hire and standing for hire other than on a designated rank, takeaway premises opening beyond licensed hours and condition of licensed vehicles.
- ✓ Random drugs' testing of taxi drivers continued. In the year 42 test were undertaken with 1 positive test for cannabis - the driver subsequently had his drivers licences revoked by Licensing Committee.
- ✓ We issued 292 suspension notices to licensed taxi drivers and vehicles, 211 related to mechanical issues or accident damage and the remainder related to issues such as failure to provide documentation.

### **To develop, modernise and continually improve service provision**

- ✓ Under Licensing Act provisions, 76 licences were suspended for non-payment of the annual fee. The majority of these outstanding fees were subsequently paid and the premise licence reinstated.
- ✓ Updated conditions for pet shops were introduced in February 2015. These model conditions have been developed by a working group made up of organisations with specialist animal knowledge including the RSPCA, DEFRA, British Veterinary Association and the Chartered Institute of Environmental Health
- ✓ We reviewed our procedure regarding renewals and issuing new explosives licences to ensure we had adequate information to determine these applications.

## **APPENDIX 3**

### **Challenges in the Year Ahead 2015/16**

There is no doubt that the coming years will be challenging, particularly given the financial pressures felt within local government. Within this context it is important that the Service gives priority to those areas of work that can make the greatest difference to the residents and businesses of the Borough.

There are also a number of proposed changes to the consumer protection landscape, upcoming policy reviews, as well as internal structural changes, which will affect and challenge the way in which the Service operates.

The main challenges are summarised below:-

#### **Tobacco Control**

There are several new proposed controls in relation to tobacco usage, supply and advertising, which will be enforced by Trading Standards, including:-

- The introduction of standardised packaging, also known as plain packaging, referring to packaging that has had the attractive promotional aspects of its label removed. The appearance of all tobacco packs will be standardised including the colour of the pack. This proposal was agreed in parliament in March 2015 and the rules are likely to take effect later in 2015.
- The introduction of an offence for the sale of nicotine products, including electronic cigarettes, to children and young people under the age of 18.
- A proxy purchasing offence committed when someone over the age of 18 purchases, or attempts to purchase, tobacco or a nicotine product, including an electronic cigarette, on behalf of a child or young person under the age of 18.
- The point of sale display ban for tobacco products, already in force for large stores and supermarkets, will be extended on the 1 April 2015 to include all other retailers and small shops.
- The requirements of the Tobacco Products Directive will need to be implemented into domestic law by May 2016. Amongst other things the Directive prohibits cigarettes and roll-your-own tobacco with characterising flavours, for example, fruits and chocolate; requires mandatory health warnings covering 65% of the whole pack; provides a regulatory framework for the safety of electronic cigarettes; and introduces new labelling and reporting requirements for novel tobacco products and herbal products for smoking.

#### **Powers of Entry Code of Practice**

In carrying out their statutory duties, Officers will need to be aware of the requirements of the new Code of Practice issued by the Home Office under The Protection of Freedoms Act 2012.

The Code provides guidance and sets out considerations that apply before, during and after powers of entry and other associated powers are exercised, including those circumstances where entry is exercised with the consent of the occupier. The purpose of the Code is to ensure greater consistency in the exercise of powers of entry and greater clarity for those affected by them, whilst allowing for effective enforcement.



## **Food Information Regulations 2014**

These new regulations have made significant changes in the way that food is described and labelled. In addition to changes for giving information about allergens, other requirements from the regulations are due to come into force over the next year or so. From 1 April 2015, country of origin information will be required for fresh, chilled and frozen meat of sheep, pigs, goats and poultry.

Nutrition labelling will be required from December 2016 for most pre-packed foods and this must be presented in a prescribed and consistent format.

## **Consumer Rights Bill**

The Consumer Rights Bill is perhaps the biggest overhaul of consumer law for a generation. The way today's goods and services are purchased and consumed seems a lifetime away from the 1970s and 1980s when many of the current UK consumer laws were introduced. Subject to parliamentary approval, it is intended that the Consumer Rights Bill will come into force on 1 October 2015.

The Bill seeks to codify consumer law that is currently set out in a number of fragmented and sometimes inconsistent, pieces of legislation, some of which are a number of decades old. In addition, it introduces new statutory rights and remedies for consumers and updates and modernises the law in certain areas, providing clarity where the law has not kept up with technological advances, such as with digital content like e-books and software.

## **Licensing Policy Reviews**

The Service is currently in the process of reviewing the Council's Private Hire and Hackney Carriage Licensing Policy and Sex Establishment Licensing Policy. Consultation on both revised draft policies closed in January 2015 and the results from this will be reported to the Council's Licensing Committee, before final revised policies are prepared for approval by Cabinet and full Council. It is hoped to have the new policies in place by the end of November 2015.

In addition there are another two of the Council's statutory policies which are due for review in 2015/16; the Statement of Licensing Policy made under the Licensing Act 2003, covering the sale and supply of alcohol, regulated entertainment and late night refreshment; and the Statement of Licensing Principles made under the Gambling Act 2005, which covers premises such as betting shops, bingo halls, adult gaming centres and casinos.

Again for both reviews, consultation exercises will be carried out, before approval is sought on final revised policies from the Council's Licensing Committee and then Cabinet and full Council. It is hoped that the new policies will be in place by the end of January 2016.

## **New Code Of Practice for Criminal Investigations**

As a result of the latest Home Office review, new draft codes of practice have been produced covering criminal procedures and investigations legislation. These codes set out rules relating to disclosure of information during criminal proceedings, making fundamental changes to current procedures including new forms and a new common law duty of disclosure.

The Home Office have not given an indication of when the new procedures will come into force.

## **BIS Report on the Impact of Local Authority Trading Standards in Challenging Times**

This research report was commissioned jointly by the Department for Business, Innovation & Skills (BIS) and the Trading Standards Institute (TSI) in 2014. The research involved a national survey of Trading Standards Services to collect information on the diminishing resource base for Trading Standards work; how services were pursuing greater efficiencies and effectiveness and were working collaboratively with other services and partners. It also examined how services were setting and identifying priorities, supporting businesses and how the impact of Trading Standards work was being measured.

The report detailed six recommendations for follow up work and actions. These were:

- Raise the public profile of Trading Standards through a programme of campaigning, supported by national bodies.
- Develop a logic model for Trading Standards processes to identify the benefit to cost for different activities including business inspections, the sampling and testing of items, and consumer and business advice.
- That BIS, TSI and the Department for Communities and Local Government should develop a national framework of measures of outcomes and impacts for Trading Standards activities.
- Local Authorities should plan budget allocations on the basis of information relating to workloads, performance and the likely outcomes and impacts of any proposed changes in provision.
- Trading Standards Services should give careful consideration to different organisational models for service delivery.
- Local Authorities should ensure that corporate performance targets do not unduly conflict with the overall aim of providing better protection for all.

The Service will consider the recommendations of this report in the coming year.