

**06 January 2015****Agenda Item: 13****REPORT OF THE SERVICE DIRECTOR FOR ACCESS AND PUBLIC  
PROTECTION****UPDATE ON KEY TRADING STANDARDS MATTERS****Purpose of the Report**

1. To update the Committee on key Trading Standards matters.

**Information and Advice**

2. **New Psychoactive Substances (NPSs) - known as “Legal Highs”:** In its response to the Expert Panel review into NPSs, the Government has agreed to look into the feasibility of adopting a general prohibition on the distribution of such substances. The approach, which has proven successful in Eire, would bring in a blanket ban with exemptions for substances that would then be permitted such as alcohol, tobacco, caffeine, energy drinks etc. The focus would be on tackling the trade or supply, rather than personal possession or use. Initial indications are that it might be the police who would enforce the new legislation.
3. The Government also endorsed the Review Panel’s recommendation for guidance to support the law enforcement workforce and prosecuting authorities to address the challenges that NPS pose for those working in this field. The proposed new legislation would be warmly welcomed to improve the legislative powers to tackle the supply of these products. Using consumer protection legislation has proven problematic because of the types of issues it has been designed to address.
4. In recognition of the seriousness of the threat from these substances, The Association of Chief Trading Standards Officers (ACTSO) has appointed a national lead on the subject. ACTSO is working with the Home Office and the Local Government Association to develop a central NPS’s knowledge hub/forum to assist Trading Standards Authorities in sharing good practice and ideas on tackling the supply of these substances.
5. In November, officers attended a Public Health England (PHE) *Multi-faceted Response to New Psychoactive Substances event* in Nottingham. The event aimed to generate discussion and information sharing, and to facilitate collaborative working amongst agencies (including local authorities, police, prisons, NHS and voluntary sectors) to address the emerging issues.
6. **Mass marketing scams** - In September 2014, the Committee approved Community Safety initiatives funding to pay for a secondment of a Police Community Support Officer (PCSO) to work with Trading Standards Officers to more effectively tackle mass marketing scams.

The role will involve joining-up Police and Trading Standards intelligence, and also helping to coordinate work to support victims to break the cycle.

7. Following a recruitment process conducted with Police colleagues, the successful PCSO commenced her secondment on 1<sup>st</sup> December 2014. This partnership looks set to make a real improvement in the way we can protect the more vulnerable residents of our County from those intent on taking advantage of them. We will update Members on the outcomes from the project as it unfolds.
8. **Unsafe Product Seizure** - Hundreds of fake Disney 'Frozen' items have been seized by Trading Standards from a Newark shop following a tip-off from a concerned member of the public. The counterfeit items, including children's pyjamas, dolls, fancy-dress costumes, umbrellas, 'snap' watches, backpacks and blankets, were on sale in the shop and online.
9. It is suspected that a number of the items do not conform to safety regulations, including pyjamas and fancy-dress costumes that are unlikely to meet 'flammability' standards. The Committee may be aware that the daughter of television presenter Claudia Winkleman reportedly suffered serious burns when a Halloween costume caught alight. The haul also includes children's hooded tops with tightening cords that are likely to be dangerous due to the risk of strangulation.
10. The seizure followed a safety warning issued the previous week about dangerous 'snap' bracelets being available with counterfeit 'Frozen' branding. The wristbands are made of a section of metal tape measure, covered in flimsy plastic, and have the potential to severely cut and injure children.
11. The Disney film Frozen has become a 'must have' brand for children's toys, with concern that demand for legitimate Disney frozen products may exceed supply this year. As a result, this seizure has generated significant media coverage from local radio, National newspapers, and breakfast television. Investigations continue.
12. **Approved Trader Tender** – Members will recall that as part of the reductions to the Trading Standards budget for 14/15 and 15/16, one proposal included exploring the possibility of working with a partner outside of the Authority to deliver a Trading Standards Approved Trader Scheme for Nottinghamshire.
13. The Buy with Confidence scheme, operated by the Service since 2007, has become ever more resource intensive, as a larger proportion of deployable resource has been spent on running the scheme. The charges made to businesses for membership have been at a level far below the actual cost incurred to the Authority of running the scheme. Further, the availability of other schemes on the market to businesses has also significantly increased since 2007.
14. The Service has recently been working with the Authority's Procurement and Legal Services Teams to seek to identify an alternative provider for a Trading Standards Approved Trader Scheme. A tender process was chosen as the most effective way to do this.
15. The specification for the tender was designed to identify a long-term partner, to maintain a high standard of checks on the traders who applied to be members, to provide a first class

service to Members to help them grow, whilst giving the Service Provider the flexibility to provide a commercially viable product. The specification also allowed for Trading Standards to maintain a high degree of governance in the running of the new scheme, whilst allowing for the possibility of generating additional income.

16. The first parts of the process have been completed, and a private sector partner selected. Having now passed through the standstill period required, the Authority is now moving to finalising the award of the contract. A formal announcement of the new partner will be made along with plans for transition to the new scheme in the near future.
17. **Avian Flu** – On 16 November, Defra confirmed a case of avian flu (bird flu) in a duck breeding farm in Yorkshire. The farm is located 12km South West of Bridlington. The strain has now been identified as H5N8, one which in its current form, cannot be readily transmitted to humans. The advice from Public Health England and the Chief Medical Officer is that the risk to public health is very low, while the Food Standards Agency has stated there is no food safety risk for consumers.
18. The avian influenza virus does change frequently, creating new strains. There is a constant risk that one of the new strains may spread easily among people. There is no evidence that any recent strain of avian influenza in this country has been able to spread directly between people.
19. H5N8 does however pose a significant economic and animal welfare challenges to the farming industry, and of course challenges for Trading Standards Officers as Animal Health Officers charged with combatting the spread of notifiable animal diseases.
20. During an outbreak, Trading Standards Officers have a frontline role with far reaching responsibilities over disease spread controls. The Animal and Plant Health Agency (APHA), as part of Defra, co-ordinates the animal disease response to such outbreaks. It has imposed protection and surveillance zones around this outbreak, at a radius of 3km (covering 28 square kilometres) and 10km (covering 314 square kilometres) as it would in many other avian flu or other disease outbreaks.
21. Within these zones, a variety of controls are put in place to prevent the spread of disease. Key controls in this case include movement restrictions of poultry, carcasses, eggs, used poultry litter and manure. In the later stages of an outbreak, movement licenses for some specific movements from the zones can be introduced. There are also usually restrictions on bird/animal gatherings (fairs, shows, exhibitions) and the release of game birds.
22. In the event of an animal disease outbreak, Trading Standards Officers would be called upon to police the control zones and offer on the ground support to APHA to eradicate the disease. In respect of the current outbreak, Nottinghamshire Trading Standards Officers have participated in daily regional conference calls with a representative from the national response forum to considering the latest developments, and what they mean locally.
23. Members will recall that the Service has in place Animal Disease contingency plans, both generic ones and specific ones regarding particular disease types. The Service has a specific avian flu contingency plan, and also has links into the Local Resilience Forum and its plans to ensure coordination of efforts across relevant partners should/when an outbreak occurs.

24. **Illicit Tobacco Task Force** – the work with Public Health colleagues to tackle the supply of illicit tobacco in the County continues apace, and has been attracting significant recent media interest.
25. It is also pleasing to report that Public Health England figures for smoking prevalence across Nottinghamshire have dropped to 18.4%, the lowest level since records began. The figures show a drop of 1% from 2014, and Public Health colleagues attribute part of this reduction to the work the Service is undertaking to reduce the supply of tobacco. Reducing smoking to 18.4% means that Nottinghamshire has achieved a nationally set ambition of 18.5% of smokers by 2015/16, one year early.
26. With regards to activity of the Task Force this year, the figures for the project are shown in the table below:

Intelligence Reports Received	30
Premises Investigated	24
Inspections of premises undertaken	43
Entry warrants executed	15
Counterfeit product seized	22.7k cigarettes, 16.3kg tobacco
Retail value of counterfeit product recovered	£13.8k
Unsafe product seized	89k cigarettes, 22.9kg tobacco
Retail value of unsafe product recovered	£43.7k

27. **Regional “Scambusters” Team** – On 12 January, the first of two trials will begin at Nottingham Crown Court following investigations into two groups involved in carrying out of work that the Authority will allege was substandard and often unnecessary. The work included roof coating and other general building work. Both groups were based for periods in the Nottinghamshire area, although the practices they engaged in were carried out across the East Midlands and other regions.
28. The team has been commissioned by the National Trading Standards Board to take the cases to Court, such is the national importance. In total, it is likely a total of 12 defendants spread across the two groups will stand trial, accused of a variety of fraud related offences. During the course of the investigation, all defendants were remanded in prison for various spells.
29. At an earlier hearing, all 12 defendants entered ‘not guilty’ pleas. The first hearing for the 8 of the defendants is listed for 7 weeks, and the team are currently liaising with witnesses to

ascertain their availability for the trial. The second trial for 4 defendants will commence later in the spring.

30. Many witnesses experience stress and fear during such investigations and when subsequently attending court to give evidence. Some witnesses may have particular difficulties giving evidence due to their age, personal circumstances, fear of intimidation or because of their particular needs. Where this is the case, 'special measures' are available to these witnesses, with the agreement of the Court. These may include the use of screens to shield the witness from the defendant, and use of live video links to give evidence from outside court. Where the individual is too ill to give live evidence, or have passed away since giving their statement, an application can be made for their statements to be read out in court.
31. **Legal Action Update – Court costs** – following a question raised in the last Committee meeting, in the 18 months between June 2013 and November 2014, 21 cases were brought to a conclusion in the criminal courts. The cost of these cases to the Authority was £28k, whilst the costs awarded by the Courts to the Authority £12k. Some of the cases that are still to be completed, and a number completed before this time, are significantly more complex and therefore costly.
32. Three individuals were sentenced on the 12 November 2014 in the Nottingham Crown Court, for their involvement in the sale of counterfeit dvd's brought into the country from China, and also converting the proceeds into gold bars. Daniel Blackburn, the main defendant, was sentenced to twelve months in prison, while Robert Clay, a friend of Blackburn's, was given a twelve month suspended sentence and 250 hours unpaid work. Amy Lapsley, Blackburn's girlfriend at the time, was given 200 hours unpaid work. A Proceeds of Crime investigation continues.
33. On the 12 November 2014, James Grozier appeared in the Nottingham Magistrates court facing charges of fraud. Grozier took deposits for work and then failed to carry out the work. Grozier eventually pleaded guilty at the day of trial. His sentencing has been deferred until the 13 January 2015. He has been ordered by the court to bring £3000 in cash for compensation to his victims. If he fails to do this it will be reflected in his sentence.
34. Fredrick Newbury was due to appear in the Nottingham Crown Court on the 21 November 2014. Mr Newbury has been carrying out substandard work and is aggressive towards some customers. He is also claiming on his paperwork to be approved by Trading Standards for which he is facing fraud charges. He has pleaded guilty to the charges and is awaiting sentencing. Mr Newbury did not attend court, and the matter has been moved to the 17 December 2014.
35. Two heavy goods drivers are due to appear in the Nottingham Magistrates court on the 19 December 2015 for breaching an environmental weight restriction.
36. On the 19 December, a Simey Doherty is due to appear in the Nottingham Magistrates court, facing charges under the Consumer Protection from Unfair Trading Regulations 2008. The Authority will allege that Mr Doherty has carried out substandard work, failed to rectify faults and has been verbally aggressive towards consumers. Mr Doherty's case has previously adjourned due to health problems.

37. On the 31 December 2014, Craig Boddy of Bowbridge Car Sales, Newark is due to appear in Nottingham Magistrates court charged with offences related to the selling an un-roadworthy car, failure to carry out pre-sale checks, and failing to respond to a consumer complaint. The matter has been adjourned on three previous occasions due to application of legal aid funding.
38. On the 3 October 2014, two sellers of 'clocked' vehicles appeared in Magistrates' court. The magistrates decided the matter was so serious to send it to the Crown Court. Hearing dates of the 8 January and the 26 February 2015 have now been set. Both have yet to enter a plea.
39. Three sellers of illicit tobacco are due in court. Ali Lukman of the European Food Store is now due to appear again for sentencing after pleading guilty. Mr Omar of Sunstar Mini Market is still waiting for legal aid, and is now due to appear again on the 11 December 2014, while the third, Mr Ali also from Sunstar mini market, has pleaded not guilty and is listed for trial on the 23 January 2015. We have a further two sellers of illicit tobacco currently listed for a hearing in the Magistrates court for the 31 December 2014, these were from the Stapleford and Netherfield area of Nottinghamshire.
40. In the case involving the mis-selling of financial products as trusts, the plea and case management hearing has been moved back until March 2015. Eight defendants have been charged with offences under the Fraud Act 2006, for the mis-selling of so called trusts which are marketed to claim they prevent assets being used for care home fees. The victims in the case are mainly older and vulnerable adults. A six to eight week trial is due to commence mid-2015. The trial was due to start in November 2014, but due to the complicated nature of the case it has been moved at the direction of the court until next year. Seven defendants have pleaded 'not guilty' to the charges, and the eighth has not yet entered a plea.

### **Other Options Considered**

41. This report is for noting only.

### **Reason/s for Recommendation/s**

42. This report is for noting only.

### **Statutory and Policy Implications**

44. This report has been compiled after consideration of implications in respect of crime and disorder, finance, human resources, human rights, the NHS Constitution (Public Health only), the public sector equality duty, safeguarding of children and vulnerable adults, service users, sustainability and the environment and ways of working and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

### **Financial Implications**

45. There are no financial implications.

## **Safeguarding of Children and Vulnerable Adults Implications**

46. The issues raised are to ensure that Vulnerable Adults are Safeguarded, they should not contribute to any Safeguarding issues.

## **RECOMMENDATION/S**

- 1) It is recommended that the Community Safety Committee notes the updates from the previous meeting and the various developments in the areas of work contained in the report.

**PAUL MCKAY**

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## **Constitutional Comments**

47. As this report is for noting only, no constitutional comments are required.

## **Financial Comments (KAS 20/12/14)**

48. There are no financial implications contained within the report.

## **Background Papers and Published Documents**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- 'None'.

## **Electoral Division(s) and Member(s) Affected**

- 'All'.