

**5 March 2020****Agenda Item:8****REPORT OF THE SERVICE DIRECTOR, PLACE AND COMMUNITIES****UPDATE ON KEY TRADING STANDARDS AND COMMUNITIES MATTERS****Purpose of the Report**

1. To update the Committee on key Trading Standards and Communities matters, and to address questions previously raised by Committee regarding fireworks, retail value of illicit tobacco, and the Local Improvement Scheme.
2. To seek approval for the Pricing Structure and the Food and Feed Enforcement Plan for 2020-21.

**Information****TRADING STANDARDS**

3. **Fireworks-** A question was raised at the January Committee meeting regarding the legal controls on the weight and noise levels for fireworks.
4. Under the *Pyrotechnic Articles (Safety) Regulations 2015* fireworks are categorised and must be labelled according to their explosive content:
  - F1- present a low hazard and negligible noise level intended for use in confined areas (includes indoor fireworks);
  - F2 – present a low hazard and low noise level for outdoor use in confined areas (garden fireworks);
  - F3 -present a medium hazard and noise level not harmful to human health for use in large open areas (display fireworks for open areas such as fields); and
  - F4-present a high hazard and noise level not harmful to human health, only to be sold to and used by persons with specialist knowledge (professional fireworks for large open spaces)
5. The *Fireworks Regulations 2004* prohibit the supply to the public of category F3 fireworks whose noise levels exceed 120 decibels and creates a curfew on the use of fireworks between 11pm and 7am (midnight on November 5<sup>th</sup> and 1am for New Year's Eve, Chinese New Year and Diwali), with some dispensations for local authority displays.
6. There are also provisions under Environmental and Anti-social Behaviour legislation, enforced by Environmental Health, to tackle excessive noise and nuisance caused by the public setting off fireworks in breach of the curfew or noise level requirements.

7. **Illicit Tobacco** – Following a question from the Committee in January, the monetary values regarding illicit tobacco used to report on the value of seizures are calculated as the full retail value of the equivalent genuine product sold from legitimate retailers.
8. Officers have continued their efforts to disrupt the availability of illicit tobacco products. In October a joint operation with Nottinghamshire Trading Standards, Nottinghamshire Police, Derbyshire Trading Standards and HMRC resulted in a £20,000 worth of counterfeit tobacco products being seized. Evidence was also discovered that these were destined for onward sale in the Nottinghamshire area and further enquiries are underway.
9. On the same day, the officers also carried out a test purchase at a shop in Worksop. Officers were sold counterfeit cigarettes and a small quantity of counterfeit tobacco products were recovered, enquiries are ongoing.
10. A revisit to a premise in Worksop revealed that the premises continues to operate despite being the subject of an ongoing prosecution case in relation to illicit tobacco. £1,730 worth of tobacco products were seized, the suspect was interviewed and reported. The case will be heard in January 2020 and will feature evidence relating to the two separate seizures.
11. In November, officers attended the home address belonging to a seller in Sutton in Ashfield. A successful test purchase was carried out and counterfeit hand rolling tobacco was sold to a plain clothes officer.
12. A warrant was executed two weeks later and assorted tobacco products totalling £3,190 were seized. The suspect has been interviewed and reported a prosecution decision is now pending.
13. Officers from the team have provided training to Notts Police Officers about the identification of illicit tobacco products. In November this training resulted in the Police reporting a stash of counterfeit tobacco that was found in an abandoned car. The stash is estimated to have been worth around £1,140.
14. Also during December, a sniffer dog was used to detect tobacco during inspections of shops in the Sutton in Ashfield area which have a history of illicit sales. A sophisticated “hide” was found by one of the dogs and this resulted in a seizure of tobacco products to a value of £1,530. Enquiries are continuing.
15. On the same day again, following a test purchase of counterfeit product, a shop in Newark was inspected. The male who sold the product was arrested and interviewed. It was discovered that the suspect is already subject to a suspended prison sentence by West Yorkshire Magistrates in relation to illicit tobacco sales. The suspect has been reported and a prosecution file is pending.
16. **Product Safety – Product Safety Incident Management Plan** - Each local authority which deals with non-food product recalls or corrective actions with businesses is required to have an incident management plan (IMP) to demonstrate compliance with PAS 7100:2018 (Code of practice on consumer product safety related recalls and other corrective actions).
17. This IMP is to support the local authority in assisting a business to manage a product safety incident and ensure informed decisions are made and accurate information is collected. Officers have recently finalised the plan for the Council. The plan is signed off at Service Director level within the Authority, so that key decision makers and Services such as Emergency Planning and Communications are aware of roles should a major safety incident occur.

18. **Product Safety** - Officers have worked with the Office for Product Safety & Standards to support a Nottinghamshire trader to take corrective action to recall electric kettles, which when independently tested were found not to comply with electrical safety standards. Faults identified included inadequate earthing and an unsafe plug, in addition to non-compliant safety instructions and labelling.
19. **Nominated Neighbour** – Officers are working with Nottinghamshire Police and Local Borough Councils officers to try and expand the Scheme, which helps protect residents vulnerable to unwanted doorstep callers. Dialogue is continuing with Newark and Sherwood District Council and work is ongoing for them to identify residents that would benefit from the scheme.
20. Ashfield District Council has also now been in contact with Officers and expressed interest in the scheme.
21. **Intelligence Apprentice** - a new apprentice, the fourth for Trading Standards, has now been appointed and started with the Service. She will help support the Intelligence Manager and continue to develop our intelligence function.
22. **Preventing Fraud Against the Vulnerable – call blockers.** Funding has been granted from the Police and Crime Commissioner to support our work in preventing fraud against the vulnerable. 10 additional call blockers will be able to be purchased with this funding, which are proven to protect some of our most vulnerable consumers from losing money to telephone scams.
23. **Safeguarding the Vulnerable** – recent interventions include:
- a Gedling consumer in her 80's began receiving items and invoices for items she had not ordered. Investigations identified that the consumer had been a victim of identity theft and various accounts had been set up in her name. Officers worked to close these accounts with the bank to prevent further fraud. Staff assisted the consumer in returning the items who did not pay in the end for any of the items she had been invoiced for.
  - An elderly, vulnerable couple in Gedling had been visited by various doorstep traders over several years and had recently agreed to significantly overpriced work. As a result of intervention, the couple have not had to pay the £3000, which the business was pursuing. Work is ongoing with the couple to prevent any future incidents.
  - Work is underway with a District Council to support an extremely vulnerable resident in his 70's who has been a repeated scam victim. A multi-agency safeguarding referral was made, and a social worker was appointed to support the resident who was as already overdrawn on his bank account. A call blocker unit fitted in four weeks identified the person had received 31 incoming calls, of which 30 suspected scam calls were blocked.
  - During October to December 2019, 104 residents were supported who were vulnerable to doorstep crime or scams.
24. **Pricing Structure for Services for 2020-21** – the Service provides a range of paid for services to businesses, other local authorities', and government agencies, and the Authority has the discretion to set charges for these services.
25. At the Community Safety Committee on the 10 January 2017, approval was given to adopt a flexible and market-based charging approach to act in a more commercial and flexible manner. The

Committee approved moving away from an hourly charge model, to a more customer focused pricing structure.

26. The approval allowed product specific, flexible pricing, and the scope to make attractive price offers to businesses based on relevant market conditions. Given its continued success this year, it is proposed that the similar model, as set out below, is used for all fees and charged from 1 April 2020 onwards.

27. Charges levied would be authorised by the Group Manager, Trading Standards and Communities, using the full cost recovery rate as the foundation for building charges. The final rates would be decided using a pricing model suitable for the market in which the service is operating, and prices varied in accordance with market conditions.

28. To decide on appropriate charges, it is proposed the following principles are applied:

- The maximum average hourly charge should never exceed the Full Cost Recovery rate, and
- Pricing models can include, but not restricted to:
  - Hourly rate
  - Day Rate
  - Project Cost; or
  - Specified Activity Cost

29. Regarding charges to other External Enforcement Bodies, the Service receives requests to deliver one-off projects, for example an inspection programme. Because of the one-off/specialist nature, and they often bring other tangible benefits. It is proposed that in line with existing arrangements, the fee charged should be agreed by the Group Manager, Trading Standards and Communities on a case-by-case basis.

30. It is further proposed that that any fee agreed in such a way should not be below a rate equivalent to full cost recovery of the direct staff time spent delivering the activity.

31. **Food & Feed Law Enforcement Service Plan 2020-21** - Section 6 of the Food Safety Act 1990, and section 76 of the Agriculture Act, places a duty on the Authority to enforce certain provisions of those Acts regarding food for human consumption and feeding stuffs for animals

32. The Food Standards Agency (FSA) is the central competent authority for overseeing official feed and food controls. It works closely with authorities to set and monitor standards, coordinate activity, and audit authorities' delivery of official controls, in order to ensure enforcement is effective, risk based, proportionate and consistent.

33. The Service delivers food and animal feed standards work, which includes labelling and quality controls. Responsibility for food hygiene controls (for human food) falls to the District Council's Environmental Health Services.

34. The FSA requires the completion of annual Service Plans and sees them as an important tool to ensure that national priorities and standards are delivered. It requires the Authority's key decision makers to be fully engaged in official food and feed controls work, and as such, the proposed plan for 2020-21 is attached as **Appendix 1** for the Committee to consider and approve.

35. **Ten Years of Primary Authority** – The Primary Authority Partnership scheme is celebrating its 10<sup>th</sup> anniversary. The scheme is overseen by the Office for Product Safety & Standards, part of the,

Department for Business, Energy & Industrial Strategy, and enables local authority Regulatory Services, to form officially recognised partnerships with businesses. These partnerships can either be Direct with individual businesses, or Co-ordinated Partnerships through trade associations.

36. **100,000<sup>th</sup> Business** - The scheme recently hit a significant milestone, registering its 100,000<sup>th</sup> in a partnership. Nottinghamshire piloted the scheme in 2009 with Boots, and rather fittingly, the 100,000<sup>th</sup> business enrolled is one covered by a Co-ordinated Partnership the Council has with the British Institute of Kitchen, Bedroom & Bathroom Installers.
37. This partnership complements partnerships the Service has with other businesses in the kitchen and bathroom sectors. Whilst the partnership is relatively new, work has already been undertaken to assist the association with some of their standardised paperwork that it provides.
38. **Legal Update - Doorstep Crime** – A builder has been charged with fraud offences for making false representations to customers about building work. He appeared in Crown Court in November 2018 and pleaded not guilty to 8 counts. His trial was due to be listed for the 7<sup>th</sup> December 2019, because further complaints have come to light his case has been moved to June 2020.
39. **Animal Health** – A man has been charged with the illegal landing of a puppy. He was due to appear in the magistrate's court on the 18<sup>th</sup> January 2019, failed to attend, and an arrest warrant has been issued. He is charged with offences under the Rabies Act and fraud.
40. A Lincolnshire farmer has been charged with theft of sheep, animal by product breaches, and failure to maintain records of animal movements. He has pleaded not guilty to the offences and his trial has been put back until March 2020.
41. **Dangerous Workmanship** - A defendant has been charged with offence for carrying out dangerous and substandard electrical work in consumers' homes. He appeared in the Crown Court in October of this year and pleaded not guilty to the charges. His case is listed for trial in September 2020.
42. **Illicit Tobacco** - A defendant has been charged with the supply of illicit cigarettes and hand rolling tobacco from the retail premise Kubus at Worksop. He appeared in the Mansfield Magistrates court on the 10<sup>th</sup> February 2020 and pleaded not guilty to the offences. His case is listed in the Crown Court for the 7<sup>th</sup> February where a trial date will be set.

## COMMUNITIES

43. **Impact of Local Improvement (LIS) funding** – examples of how LIS funding has made an impact in the County were considered at the Committee Meeting in December 2019. Awards made in the Information and Advice category were highlighted as enabling £47.9m of clients' debt to have been handled by funding recipients and had also delivered £13.7m of additional benefits to the clients of those agencies.
44. The Council contributed £214,000 in 2018/19 to 8 Information and Advice organisations, including 1 partnership, in order to achieve these outcomes. This amount awarded accounted for approximately 20% of the income of the agencies concerned and helped them to be able to deal with 65,905 queries.
45. **Talented Athletes** – following a request at the January Committee meeting, the table below sets-out the 82 talented athletes awards, broken down by both sport and district.

	Ashfield	Bassetlaw	Broxtowe	Gedling	Mansfield	Newark and Sherwood	Rushcliffe	TOTAL
Archery	1				1			2
Athletics	1	3	1				7	12
Athletics - Para		1					1	2
Canoe / Kayak			1				12	13
Canoe / Kayak - Para							1	1
Climbing	1							1
Cycling				1		1		2
Equestrian		1				1		2
Equestrian - Para							1	1
Fencing				1				1
Golf						1		1
Gymnastics							1	1
Handball	1							1
Ice Hockey	1						1	2
Ice Skating	1		1		2	1	2	7
Karting							1	1
Martial Arts			1					1
Powerlifting		1						1
Sailing				1				1
Slopestyle Skiing			1					1
Speed Skating			1		1	2	2	6
Swimming	2	3	3			2		10
Swimming - Para	1	1						2
Table Tennis			4					4
Tennis							2	2
Volleyball							1	1
Water Polo		2				1		3
<b>TOTALS</b>	<b>9</b>	<b>12</b>	<b>13</b>	<b>3</b>	<b>4</b>	<b>9</b>	<b>32</b>	<b>82</b>

46. **Armed Forces Work – Breakfast Club** - employees and families who are part of the Armed Forces family, supported by the Council's Armed Forces Champion, Cllr Keith Girling, have now met twice, in the form of a Breakfast Club. 4 more sessions are planned for 2020.

47. The Club provides an opportunity for Reserves, Veterans, Cadet Force Adult Volunteers, and close family members of serving personnel to meet and discuss areas of interest and provide support. Currently there is a membership of thirty, with new members being added monthly. Although still in its infancy, feedback from attendees is that the Club is both valued and appreciated.

48. **Defence Employee Recognition Scheme (DERS)** – a decision to achieve Gold standard for the scheme was made by Policy Committee on 7 March 2019. The Armed Forces Champion will sign off on the process, and an application for Gold Award will be submitted by the Council before 21 March 2020. Results will be known later in the year and, if successful, a delegation from the Council will be invited to London to receive the award.

49. **VE Day 75 – Civic Reception** – it is proposed to hold a Civic Reception and High Tea at County Hall on Tuesday 6 May 2020, and that a group of employees will be invited to bring along an older relative who is over 75, and lives in Nottinghamshire. Although numbers will be limited, every effort will be made to ensure those attending are representative of the

50. **Concert for Peace** - Vintage Singers, a 1940's Swing Band, and the band of the South Notts Hussars will headline a musical extravaganza at Rufford Abbey Country Park on Friday 8 May and Saturday 9 May. A lone piper will play the lament 'Battle Oer' from the ruins of the Abbey, and the concert will be concluded by a performance from the band of Nottinghamshire Army Cadet Force and a firework display.

### **Other Options Considered**

51. **Charging approach for 2020-21** - all costing models were appraised as part of developing the commercial plan for the Service as part of the Authority's Commercial Development Unit process. All have been reviewed and appraised during 2019-20.

52. **Food and Feed Plan** – There is no other option, as the plan is a requirement of the Food Standards Agency.

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

53. **Charging approach for 2020-21** - All costing options and models were appraised as part of developing the commercial plan for the Service as part of the Commercial Development Unit process. The proposal passed the scrutiny test of the Chief Executive panel, and was subsequently approved by Policy Committee on 16th November 2016

54. **Food and Feed Plan 2020-21** – There are no other options. The FSA places a great deal of importance on ensuring that the Authority's key decision makers are fully engaged in official food and feed controls work. As such, the Trading Standards Service proposed plan for 2020-21 is attached as Appendix 1 to this report for the Committee to consider and approve.

55. To ensure appropriate political oversight of key Trading Standards and Communities matters.

### **Statutory and Policy Implications**

56. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment 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**

57. **Charging approach for 2020-21** - All costing models were appraised for the commercial plan developed as part of the Commercial Development Unit process. A flexible, market-based approach is key to achieving Services income target

58. **Food and Feed Plan** – the proposed plan requires the investment of approximately £150k into delivery of the plan.

## **Human Resource Implications**

59. **Food and Feed Plan** – the proposed plan requires the investment of approximately the equivalent to 2.6 FTE of existing resource. This is lower than the Food Standards Agency would ideally like.

## **RECOMMENDATION/S**

That the Committee:

- 1) Ratifies the updates given regarding Trading Standards and Communities matters;
- 2) Ratifies the updates provided regarding fireworks, retail value of illicit tobacco, and LIS outcomes;
- 3) Approves the proposed charging approach and principles for 2020-21; and
- 4) Approves the Food & Feed Law Enforcement Service Plan for 2020-21.

**Derek Higton**  
**Service Director, Place and Communities**

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## **Constitutional Comments (KK 30/01/2020)**

60. The proposals in this report are within the remit of the Communities & Place Committee.

## **Financial Comments (CSB 31/01/2020)**

61. The financial implications are set out in paragraphs 57 and 58 of the report.  
The net budget for the Trading Standards service in 2019/20 is £932,000.  
All costing models have been reviewed and appraised during 2019-20 and the Service is on track to exceed the current commercial income target of £638,000 set for 2019-20.  
The Food and Feed proposed plan requires investment of approximately £150,000 into delivery of the plan. This will be contained within the existing budgetary provision.

## **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