

10th January 2017

Agenda Item: 7

REPORT OF THE SERVICE DIRECTOR SOUTH NOTTINGHAMSHIRE AND PUBLIC PROTECTION

UPDATE ON KEY TRADING STANDARDS MATTERS

Purpose of the Report

1. The purpose is to update the Committee on key Trading Standards matters.

Information and Advice

2. **National Audit Office report** – in December, the National Audit Office published its report into the performance of the UK's consumer protection system following a recent review. The Office looked at the system since its previous review in 2011, and also in the context of the threats currently facing consumers.
3. The 2011 review led to a number of significant changes at a national level to the Consumer Law landscape, including the introduction of the Consumer Advice Consumer Service, the creation of the National Trading Standards infrastructure, and the creation of the Consumer and Markets Agency.
4. Entitled "Protecting consumers from scams, unfair trading and unsafe goods", the report focusses on those Government policy matters that fall under the consumer policy remit of the Department for Business, Energy and Industrial Strategy. The report therefore did not consider functions covered by the Trading Standards Service such as Food Safety, Animal Feed, Weights and Measures, Animal Disease, or Licensing.
5. The report found that UK consumers spend £1,160 billion a year on goods and services, and in 2015-16, the value of consumer detriment was estimated at £14.8bn. In 2015-16, it found the estimated costs of the entire consumer protection system to be £165million (1.1% of detriment, or 0.14% of consumer spend), and that there is approximately 200 different bodies in the consumer protection system.
6. Local Authority Trading Standards make up the bulk of those bodies (receiving £124million of funding from Local Authorities, or 75% of overall funding). It further found that since 2011, the budgets for Trading Standards Services have been reduced by 46%, and since 2009 there has been a 56% reduction in the number of Trading Standards Officers.
7. The report makes 11 key findings:
 - The Department does not routinely cost the consumer protection system;

- There is limited robust data on the overall scale of consumer detriment;
 - Consumers are facing increasingly complex and wide ranging threats, in particular from the rise in e-commerce, and scams are being more targeted;
 - The consumer protection bodies have improved data on consumer threats, but significant threats still remain;
 - The Department has improved the overall coordination of consumer protection bodies;
 - The Department has little control over the majority of resources making effective system prioritisation difficult;
 - The loss of resource and downsizing of Local Trading Standards services have led to gaps in coverage at the local level;
 - The system is addressing national and international issues better but long term planning is insufficient;
 - Government's response has not kept pace with the growth of online consumer fraud;
 - The Department has created opportunities for a more preventative approach to consumer protection; and
 - There is no system-wide reporting of the impacts of consumer protection work.
8. The report concluded that UK consumer protection has made progress since the 2011; that the Department has ensured better coordination, and that individual consumer protection bodies have demonstrated they achieved good impacts with limited resources. Further, the nature of commerce is changing, that consumer detriment is increasingly national and international rather than local, and the system has not adapted to these changes.
9. The report also concluded that the local level of the system which receives the majority of funding has suffered from a declining status, significantly reduced capacity, and gaps in coverage which leave consumers inadequately protected. It further concludes that the scale and sustainability of the response at a national level is limited relative to the problem being tackled, system-wide prioritisation of resource is difficult, and whilst improvements to date are welcome, the system is not demonstrating that it provides value for money
10. The report then makes recommendations in 7 areas. They are that the Department should:
- Ensure that detriment is estimated and reported regularly in a consistent manner;
 - Work with the Consumer Protection Partnership to continue to improve intelligence gathering and sharing across the system as a whole;
 - Work with relevant departments, and the Department for Communities and Local Government towards a shared understanding of risk to consumers;
 - Work with relevant departments, and the Department for Communities and Local Government , to ensure that consumer protection skills and capacity are deployed strategically to reflect how and where detriment occurs;
 - Ensure the most appropriate and costs effective tool or intervention is available to the system as whole, including new powers
 - Ensure that its delivery bodies can plan for a longer period than annually; and
 - Together with the Home Office and other government departments, should coordinate their separate activities addressing consumer fraud.

11. This report will be presented to parliament, and may be considered by the Public Accounts Committee, where members take evidence from senior officials of the organisations under scrutiny. The Committee would then publish its own report and recommendations to which Government must respond. It is not yet known whether this report will be considered by the Public Accounts Committee. It is clearly a very important report that officers will need to reflect on over the coming months.

12. The full report can be found at:

<https://www.nao.org.uk/wp-content/uploads/2016/12/Protecting-consumers-from-scams-unfair-trading-and-unsafe-goods.pdf>

13. **Safeguarding the Vulnerable** – the Service continues to intervene to protect our more vulnerable residents:

- Officers are assisting another Trading Standards Authority by taking a statement from a vulnerable Nottinghamshire resident as part of an investigation into a UK based nutritional supplements scam. The pensioner, who has serious health issues, lost a total of £1800 over a 6 months period. The scamsters preyed on her vulnerability by promising bogus health benefits from the extortionately priced nutritional supplements. Some of the money was taken from her account without her consent.
- There are further health concerns from one of the supplements which is suspected of containing traces of lead. Officers are also working to protect her from future telephone scams by the use of a call-blocker and other preventative measures.
- Officers have been giving support to an elderly couple from Rushcliffe, who have spent large quantities of money over the last few years on roof repairs, having been repeatedly targeted by rogue traders. A surveyor commissioned by Trading Standards reported that the work completed was overcharged for, and of substandard quality. Witness statements have been obtained. It is believed that the offenders are from out of the County and Trading Standards are supporting another Authority with their investigation into the rogue traders.
- Concerns were raised regarding a Bassetlaw consumer who was suspected of being the victim of a rogue trader. Trading Standards gave advice to the consumer and also liaised with their social worker and carers to ensure that they were aware of the concerns and put measures in place to prevent any possible further harm.
- An elderly vulnerable Worksop resident has been visited by Trading Standards on several occasions recently regarding some recent gardening work completed by rogue traders. The traders were working in the area and were asked by the resident to commence some work at her property. Rogue traders are using this tactic recently of completing cheap work for one resident in the hope that another will ask for work to be done on their property which they do for an inflated price. In this case a quote of £1,900 was given for a small amount of work and the resident had already paid £600 when Trading Standards were contacted by Nottinghamshire Police. The Police were alerted by the consumer's bank who noted the withdrawal of a large amount of money. A Trading Standards Officer mediated with the trader who is now not seeking any

more monies from the resident and has been made aware of the legal requirements when seeking work. Local PCSO's were updated and were able to monitor the area. The elderly resident is feeling much safer since Trading Standards intervention and is confident how to deal with any doorstep traders in the future.

14. Since the beginning of July 2016 to the end of September 2016 Trading Standards have received 41 notifications of doorstep crime incidents/information. Out of these 17 victims have been supported (either by phone, letter or visit), and two have been stopped from either making further payments or money has been recovered to the value of £6,500. 3 referrals were from Social Services and 4 were from the Police.
15. **Fireworks** - Trading Standards Officers recently completed the high risk inspections in the run up to bonfire night and the sale of fireworks. A total of 29 fireworks inspections took place across the County which included 8 high risk premises and 11 new premises. A total of 7 different Districts or Borough Councils were inspected within Nottinghamshire. Capital FM accompanied a Trading Standards Officer on one of the inspections and a press release followed the broadcast which was covered by several Nottinghamshire radio stations.
16. The firework inspections look at different areas including their safe storage and checking that no premise sells to under 18's. Advice is given during the visit to help businesses around Challenge 25, till prompts and a refusal register. A common issue with fireworks storage is that other easily combustible materials are stored near to, or next to, where the fireworks are stored. This is something that is verbally advised to the trader/premises along with a visit note. These issues are rectified in the officer's presence. Businesses demonstrate to officer their system which is in place to prevent the overstocking of fireworks.
17. During this time the Trading Standards Officer conducting firework inspections liaised with a Community Safety Officer in the Worksop area regarding anti-social behaviour issues with fireworks which had become an issue in the Manton Estate area. Inspections also took place in the Worksop area to ensure that businesses were adhering to their fireworks licence.
18. **Illicit Tobacco** - Currently a total of 21 individuals are on bail for offences relating to the sale and distribution of illicit tobacco. Trading Standards Officers are working closely with other Local Authorities in the region to tackle the problem, as many offenders are located in more than one Local Authority area.
19. Trading Standards Officers have also been working with Her Majesty's Revenue and Customs, where seized tobacco has been identified as 'duty evaded', and HMRC have taken the evidence for their own legal action.
20. Partnership working is a crucial part of the Trading Standards work in tackling illicit tobacco and Trading Standards Officers have delivered training to all front line Environmental Health Officers in the County and has already received intelligence from two Environmental Health Officers regarding the sale of illicit tobacco. PC Rich Cornell has also delivered training to Nottinghamshire Police Officers in the North of the County where there have been identified problem areas.

21. Trading Standards are working with Public Health to develop intelligence sharing on problem areas with a view to Public Health following up any Trading Standards inspections with a mobile clinic for individuals wanting to stop smoking.

22. **E-Cigarettes and Refill containers - Changes in legislation** – On 20th May 2016, the European Union Tobacco Products Directive was transposed into UK legislation by the Tobacco and Related Products Regulations 2016. The main requirements and changes are:

- *Notification to the Medicines and Healthcare products Regulatory Agency required (MHRA)* – Producers, manufacturers, and importers must now submit a notification to the MHRA for existing products or new products they intend to put on the market, creating a system of traceability. Producers have to now present complex product information including toxicological data, specifically in relation to the effects on the health of consumers.
- *Retailers must check that all products they are sourcing and supplying have been notified to the MHRA.*
- *Product specifications, and labelling and accompanying information requirements have been set, including:*
 - maximum permitted sizes, and nicotine concentration levels, for refills;
 - prohibition of ingredients posing a risk to human health;
 - requirement for refill containers to be child resistant and tamper evident;
 - requirement to include leaflets with instructions for use/storage, and a recommendation that they should not be used by young people/non-smokers; and
 - requirements to be labelled with the health warning.
- *Systems to Report Adverse Health Effects Plus Product Recall Systems:* Producers will be required to put in place a system to enable information about any adverse health effects to be collated, and they must take corrective action if they become aware that a product is defective or unsafe.
- *Controls on Presentation in Promotions:* Products must not be presented in a way that promotes their use/consumption or creates an impression that they are less harmful than other e cigarettes/refill containers on the market. Advertising to consumers in the press/online is prohibited.

23. There are some transitional provisions with regard to the changes:

- *New Products:* From 20 May 2016 onwards, producers were required to submit a notification to the MHRA 6 months before they intend to put their product on the market. Between 20 May and 19 November products can be put on the market as long as the notification is made at least one day before they are sold for the first time.
- *Products already on the market:* Producers will have until 20 November 2016 to submit a notification for products already on the market. After this date, products not

complying with the TPD can only be sold if they were produced before 20 November 16.

24. From 20 May 2017, all products on the market must fully comply. We are currently in discussions with other agencies on establishing the current compliance level with the new requirements and developing ways to ensure that those in Nottinghamshire are fully compliant in time for May 2017.
25. **Regional “Scambusters” Team – Operation Spinnaker** – On 27th and 28th October, 10 individuals were sentenced by Judge Rafferty at Nottingham Crown Court for their part in an advertising fraud that targeted small businesses across the United Kingdom and Europe.
26. At the height of their activities, the turnover of the group of businesses is estimated to have been £7m per year. The group used high pressure sales techniques, exaggerated distribution figures and often misleading businesses into thinking that their publications would be promoted at high profile events.
27. Those sentenced were:
- i) Rivers - 6 years imprisonment, 10 years disqualification as a director;
 - ii) Basra - 40 months imprisonment, 6 year disqualification as a director;
 - iii) Simpson - 38 months imprisonment , 6 year disqualification;
 - iv) Draper - 20 months imprisonment , 3 year disqualification as a director;
 - v) Walker - 16 months imprisonment, 3 year disqualification as a director;
 - vi) Chamberlain - 2 years imprisonment suspended for 2 years, 5 year disqualification as a director;
 - vii) Soan (Spicer) - 2 years imprisonment suspended for 2 years, 5 year disqualification as a director;
 - viii) Padan - 6 months imprisonment suspended for 2 years;
 - ix) Taylor - 6 months imprisonment suspended for 2 years; and
 - x) Lal - 3 months s imprisonment suspended for 12 months.
28. In his address to the Court, Judge Rafferty singled out Jonathan Rivers, saying he was the “head, heart and soul”. Judge Rafferty said that Rivers was able to receive £1.7m over the period in question, and that he had managed to put £600,000 into his own pension at the expense of innocent people. Judge Rafferty referred to the co-accused as “siphons”, and as useful lieutenants to Rivers. He said the group pursued victims with “relentless enthusiasm”.
29. The Judge referred to a number of the Victim Personal Statements, and referred to the case of Mr Moyles as the worst example where he had lost £20,000 for absolutely nothing. The Judge said that the case had led to the destruction of Mr and Mrs Moyles, both of who have subsequently died.
30. Judge Rafferty subsequently spoke to our team, recognising that it was a very difficult case, and that it had been expertly prepared. He then went on to commend the investigating officers.

31. Following the sentencing of the first 10, the 2 remaining defendants will appear before Nottingham Crown Court the week commencing 9th January 2017. One defendant has already entered guilty pleas in relation to her involvement in the advertising fraud. She will be sentenced on 13th January 2017.
32. The other defendant maintains her not guilty plea, and will therefore face a 5 day trial commencing on the 9th January.
33. The individuals involved in the fraud continue to be the subject of Proceeds of Crime investigations to determine the 'benefit' that has been obtained through these criminal activities. To date, two confiscation orders have been made against 2 defendants, Draper and Chamberlain, for a total of £122k. This money will go in part to compensate victims. Further Proceeds of Crime hearings will take place during December 2016.
34. **Regional Scambuster Team – potential change of name** – there have been some concerns raised in other parts of the country that the use of the name 'Scambuster' in legal proceedings could be prejudicial to some extent. As such, the National Trading Standards Board, is considering changing the name of all the Teams.
35. The current preferred option following initial consultation is to rename the teams 'National Trading Standards - Regional Investigations Team' with a suffix of each region's initials. The change of name decision will be put to the National Trading Standards Board at its next meeting in January.
36. **Legal Action Update** – In April 2016 Mr Hassan, Mr Salah and Mr Kadir were arrested for the supply and possession of counterfeit and dangerous cigarettes. The supply is connected to the retail store Andrews News and Booze at Sutton in Ashfield. All three were sent to the Crown Court, and appeared on the 23rd May 2016. Mr Khadir pleaded guilty to the charges, whilst Hassan and Salah pleaded not guilty, although both have pleaded since this hearing. Sentencing has been put back until the conclusion of the Proceeds of Crime investigation as such sentencing is now listed for the 17th February 2017. A third person, Mr Rekant Azizi, has been joined into the case, he has also pleaded guilty and is due for sentence on the same day. Mr Salah had been previously dealt with by Trading Standards for selling dangerous cigarettes in the same shop he was given a 4 month suspended prison sentence with 130 hours unpaid work.
37. Another defendant previously dealt with from this shop was Ms Rudminate, and she was given a conditional discharge, and a costs order of £190.
38. Sherzad Mohammad of Annesley Road Stores and Hucknall Mini Market, Hucknall appeared in the Nottingham magistrate's court on the 10th May 2016 charged with the supply and possession of counterfeit and dangerous cigarettes. His case has been sent to the Crown court, he pleaded guilty, and was originally due to be sentenced in October. Further offences have however since been identified, and Mr Mohammed's case has now been listed for trial in June of 2017, where he will also be sentenced for the old matters following a trial for the new matters.
39. There have been a number of seizures and resulting prosecutions in relation to Hucknall Mini Market, including Aziz Hussain who was given 70 hours unpaid work and costs order

of £150, Soren Khder who was given £150 fine and £800 costs order and Dana Mira who was given 100 hours unpaid work and £750 costs.

40. James Grozier of National Trade Windows was charged with Fraud offences, and offences under the Consumer Protection from Unfair Trading Regulations. He had been taking deposits for work, namely replacement double glazed windows and then not completing the work or refunding the deposits. He pleaded guilty before trial, and was sent to the Crown Court, where he is due to be sentenced on the 16th January 2017. Mr Grozier has been prosecuted by the Authority on two previous occasions for similar offences, when he was sentenced to 392 hours unpaid work, and ordered to pay compensation of £6935.
41. Four individuals have been charged with conspiracy to possess criminal property, namely illicit cigarettes. These are Mr Hersh Mohammed, Mr Alan Ali, Bakir Khalidi and Syrwan Mohammed-Ali. This is a joint investigation with Nottingham City Council as two of the premises involved are within the City area. The premises in Nottinghamshire is Outram General Stores at Sutton in Ashfield. A hearing took place in October 2016, where all defendants pleaded not guilty, and a trial date has been set for the 26th June 2017.
42. In the previous 12 months, seven other defendants connected with this shop have been prosecuted, all in relation to the possession of illicit cigarettes. Mr Alizadeh was given 80 hours unpaid work with £470 costs. Mr Saidi was given 100 hours unpaid work. Mr Rassul who has been dealt with twice had a combined sentence of 180 hours unpaid work and £300 costs, Mr Kumal £165 fine and £50 costs, Mr Hussaini who has been caught twice was given 150 hours unpaid work and £800 costs, Mr Kheder 60 hours unpaid work and £200 costs and Mr Mohamed £360 fine and £220 costs.
43. Mr William Smith, Mr Andrew Smith and Mrs Christine Smith of Barn Bacon Limited appeared in the Crown Court recently charged with fraud by misrepresentation. The Authority alleges that claims made with regards to meat products being 'free range' and from the businesses own farm are untrue. The trial is now listed for the 24th April 2017.
44. On the 10th November 2016, Asda Store Ltd pleaded guilty to the supply and possession for supply of 34 products outside of their use by date food, some being several months past their use by dates. The company were fined £75,000 and ordered to pay costs totalling £9000.
45. Members will recall that in September, Tyronne Beard, was given a Confiscation Order by the Nottingham Crown Court. He was ordered to pay £60,081 (available assets), and had a benefit figure declared at £613,163. The available amount must be paid by 23rd December 2016. If he fails to pay, he will face a default sentence of 4 months imprisonment. The £60,080.88 has been awarded to be paid to the 65 victims.
46. Mr Hew Abdullah and Mr Abdullah Mohammed are both facing charges in the Crown Court for the possession and supply of illicit cigarettes. They are both from the retail premise Zabcia, Mansfield. They have pleaded not guilty to the charges and are due for trial on the 17th July 2016.

Other Options Considered

47. None

Reason/s for Recommendation/s

48. This is an information report.

Statutory and Policy Implications

49. 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

50. This report contains no additional financial implications, with activity reported or that proposed being contained within existing service budget.

RECOMMENDATION

- 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, Service Director, South Nottinghamshire & Public Protection.

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Constitutional Comments

As this report is for noting only, Constitutional Comments are not required

Financial Comments (CT 21/12/16)

The financial implications are contained within paragraph 50 of 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.

- 'Commercial Development Unit', Report to Policy Committee, 16th November 2016.

- Protecting consumers from scams, unfair trading and unsafe goods, National Audit Office Report, published 15th December 2016.

Electoral Division(s) and Member(s) Affected

- All