

23rd April 2013**Agenda Item:7****REPORT OF THE SERVICE DIRECTOR PROMOTING INDEPENDENCE 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. **Matters arising from the previous meeting** – Consumers' rights when buying goods online. On our website searching under "Trading Standards" and then "Consumer Advice"- "Problems with Goods" we have the following consumer information leaflets which give details in plain language about consumers' statutory rights when buying online:
 - a) Buying goods: your rights.
 - b) Shopping at home: your guide to the Distance Selling Regulations.
 - c) Shopping on the Internet.
3. Refusal or revocation of explosives licences – As a licensing authority we can refuse or revoke a fireworks registration or licence if:
 - a) The premises is not suitable to store fireworks; or
 - b) The licensee or registered person has been proven to be "not a fit person" to store fireworks.
4. For the purposes of this legislation a person is "not a fit person" if there is evidence from their previous trading history to give us reasonable grounds to believe the person cannot be relied upon to store fireworks safely. Also relevant is whether they have sold unsafe fireworks or fireworks of the wrong classification (e.g. display fireworks to an ordinary customer). A person's criminal record for other offences, not related to the safe storage of fireworks, is not deemed relevant to their fitness to hold a fireworks registration/licence under this legislation.
5. **Horse DNA in Meat Products** – Trading Standards Services across the Country continue to support the Food Standards Agency (FSA) in nationally co-ordinated action to tackle the issue. Our officers worked with County Council Procurement to look closely at the Council's own approved suppliers. Samples were taken at a number of suppliers and came back negative for the presence of horse DNA. Procurement has been carrying out a detailed look

back at approved suppliers' traceability records to verify compliance with the requirements of the contracts. Trading Standards Officers also contacted Nottinghamshire's major manufacturers, packers and processors to confirm that their traceability systems were sufficient and that they had conducted any necessary testing.

6. Following on from their initial investigations the FSA asked this service, as part of the national work, to obtain samples for analysis from a variety of different types of premises. The FSA also requested enforcement authorities nationally to carry out inspections at any remaining cold stores and approved premises within their areas, which we have done working in partnership with Environmental Health colleagues in each of the District Councils. Of all the sample results received so far all have proved negative with regard to horse meat DNA.
7. **Food Standards Agency (FSA) Review of Official Food & Feed Controls** – this service took part in a FSA national consultation event at the end of February. The aim was to look at the issues local authorities face regarding official feed controls and to discuss the various options available to provide effective regulatory controls in future. One of the main recommendations appears to be leaning very much towards some sort of regional delivery through centres of excellence. Through the work that this service has been doing over recent years and its move towards up-skilling more of its officers, we feel that Nottinghamshire Trading Standards will be in a strong position to put in a bid to carry out this work.
8. One area that the FSA are looking at is some form of “Earned Recognition” for the industry. This would probably be in the form of an assured scheme of some sort. The aim would be to reduce the burden on business of regulatory inspections by businesses demonstrating compliance through the assured scheme. In addition, the FSA are looking at revising the Code of Practice on official feed controls so that it is more flexible and therefore more able to adapt to market changes.
9. **Animal By Products Controls** - “Animal by-products” are defined as “entire bodies or parts of animals, products of animal origin, or other products obtained from animals that are not intended for human consumption”. The Service enforces legislation to ensure that animal by-products are collected, identified and disposed of in the correct manner without undue delay, in order to prevent risks arising to public health and animal disease.
10. One of the methods of disposing of such material is through approved premises such as renderers. Officers have recently worked in partnership with colleagues from the Animal Health and Veterinary Laboratories Agency to resolve non-compliances at a local rendering plant. The result of this work is that the plant is now fully compliant with animal by-products legislation with the plant operators committed to continually improve their processes.
11. **Illegal Money Lending – Police training.** Following on from the illegal money lending awareness training delivered to other agencies, as part of November's month of action, we are now arranging for Nottinghamshire police colleagues to receive training from the national Illegal Money Lending Unit. This has come about following the excellent feedback from police colleagues who attended the earlier training. There has been a 67% increase in illegal money lending intelligence received since the training in November.

12. **Consumer Credit regulation regime changes – Government consultation.** On 6 March 2013 the Government published a consultation document setting out its proposals for transferring responsibility for consumer credit regulation from the Office of Fair Trading (OFT) to the Financial Conduct Authority (FCA). The closing date for responses to their document is 1 May 2013. The transfer of consumer credit regulation from the OFT to the FCA will take place on 1 April 2014. The consultation is high level relating to the framework for the new regime. There will be a further consultation later in the year on its detailed design.
13. **Pay Day Lenders- Office of Fair Trading action -** In early March the Office of Fair Trading (OFT) announced that they were to take action against Payday Lenders, with the possibility that the lenders will lose their licences if they do not improve practices. Particular areas of non-compliance included lenders:
- failing to conduct adequate assessments of affordability before lending or before rolling over loans
 - failing to explain adequately how payments will be collected
 - using aggressive debt collection practices
 - not treating borrowers in financial difficulty with forbearance.
14. Later in March the OFT announced that a Payday Lender, MCO Capital Limited, had had its consumer credit licence revoked. Last year Nottinghamshire County Council's Trading Standards Services were paid by the OFT to audit a local pay day lender as part of their national survey. We will continue to support the OFT to address this issue over the coming months.
15. **Environmental Weight Restrictions and Lorry Watch –** Between December and March 12 enforcement exercises have been carried out with 77 vehicles observed as being potentially in breach of the restrictions. Of these, 19 have proved to have legitimate reasons to be in the restrictions, 35 have been received formal warnings and the remainder are still under investigation. There have not been any repeat offenders observed in any of the areas.
16. The Community Lorry Watch (CLW) schemes in Tollerton and Cromwell have been officially launched and another in Hickling is due for launch imminently. The local communities within the CLWs continue to supply the Service with observation reports which are used as intelligence to direct enforcement exercises. All vehicles in the reports are followed up to see whether or not they are potentially in breach of the restriction. If they are we contact the owners to say that they have been observed and to advise them that unless they have legitimate reasons to be in the area then they must desist from using the route. Recent reports from members of the community in Hickling have identified 3 companies that still appear to be using the restriction since its introduction. Trading Standards is liaising with these companies to explain that they need to find an alternative route.
17. **Safeguarding Vulnerable People –** the Service continues its work to safeguard vulnerable residents. Recent examples include:
- Trading Standards recently stepped in to assist an 86 year old man who had been cold called and persuaded to pay £17,000 for two pink diamonds which he had never received. Following the intervention of this Service the vulnerable resident has now received a full refund.

- Officers intervened when a vulnerable consumer from the north of the County felt that he was doing the right thing by obtaining 3 quotes for solar panel installation. However, feeling under pressure and not reading the terms and conditions of the paperwork he unwittingly signed two contracts for £6,950 for the supply of the goods and was waiting for a visit from the third trader. The older man had initially reported that there were no cancellation rights. On inspection the officer discovered that the paperwork was compliant and contained cancellation notices. The officer was able to assist the vulnerable resident in cancelling the two contracts and gave further advice on his consumer rights.
- Officers have been working with social workers and a local building society manager to protect a vulnerable older woman who is being targeted and duped by multiple scam mailings. We have managed to reduce the number of scam mailings being sent to the address but have struggled to fully convince the resident that the glossy well worded letters are all scams. As the resident has been deemed to have mental “capacity” to manage her affairs there is a limit on the action we can take to protect her.

18. Tackling problem traders – a key Service priority is to tackle those traders causing the most detriment to Nottinghamshire residents. Recent examples include:

- We identified a Nottinghamshire based wall rendering company that had generated a high number of complaints in relation to poor workmanship, a failure to rectify faults/honour warranties and poor working practices. The total detriment associated with the 38 complaints (2011-12) is estimated to be in excess of £150,000. The company website also made several misleading statements and claimed to be endorsed by several trade bodies when this was not the case.
- Unfortunately, Nottinghamshire consumers had various issues with previous limited companies operated by the same director, making it difficult for the Service to address their individual complaints. Our officers intervened to work with the company’s director to correct his poor trading practices and to refund monies outstanding to some customers. The company director signed an informal undertaking under the Enterprise Act to improve his trading practices. The undertaking applies to any future companies he is involved with. We have had no complaints in the last 6 months about the new companies set up by the director and will continue to monitor the director’s activities in future.
- Officers investigated a Nottinghamshire based trader who deals in second hand car parts both from trade premises and also over the internet. Numerous complaints were reported in respect of failing to observe cancellation rights and to remedy complaints about faulty goods. Refunds were not being given when required.
- Officers checked the trader’s terms and conditions and gave advice regarding relevant legislation and improving the business’s complaint resolution procedures. Since our intervention complaints have been substantially reduced and the trader appears to now be operating legally and fairly.

19. **Age Restricted Products – Code of Practice.** In February the Better Regulation Delivery Office (BRDO) published a Code of Practice for Regulatory Delivery of Age Restricted Products and Services.
20. The document provides guidance on the way that age restricted product enforcement is conducted by requiring all resources to be prioritised based upon risk and directed on the basis of outcomes and impacts, with enforcers working with business to solve problems. The tactics used (such as test purchasing with young volunteers) to tackle problems should be justified based upon on necessity and proportionality to the problem. This approach is likely to put an end to the sole use of test purchasing as the way to resolve all age restricted product issues, regardless of the problem and risk the product being sold presents.
21. The problem solving approach adopted by the Service has seen a shift in tactic away from the 'one size fits all' large scale test purchasing based approach and means that the service already meets the principals of the Code in relation to the approach we take. Some minor new procedural requirements for particular tactics within the code are being put in place and an internal audit is being undertaken to confirm we are as transparent to businesses regarding what we do as the code requires us to be.
22. **Age Restricted Products – Primary Authority.** The national Primary Authority scheme currently doesn't cover age restricted alcohol enforcement. Nottinghamshire Trading Standards was one of 6 authorities across England and Wales selected by the Better Regulation Delivery Office (BRDO) to take part in a 6 month study which ended in March 2013. Working with Nottinghamshire police we were asked to report on whether the Primary Authority scheme (i.e. one authority having a relationship with large businesses to provide advice on interpretation of complex legal requirements that cannot be ignored by other enforcers), provided any barriers to enforcement. Trading Standards will report that no barriers to expansion of Primary Authority to age restricted alcohol enforcement were encountered.
23. **Legal Action Update** – Jarvis Jenkins, who has previously been prosecuted by this service for offences under the Consumer Protection from Unfair Trading Regulations, appeared in court on the 15th March 2013 following a Proceeds of Crime investigation. He has been ordered to pay a total of £13,000 in compensation to those victims that were subject to the Trading Standards case. Mr Jarvis has 6 months to pay the compensation or may face a custodial sentence for failure to pay.
24. Lee James and Nicholas Densham were due to appear in the crown court for a hearing on the 10th April 2013. We are alleging that James had been changing customer's orders and sending out different specification steel beams to those ordered, for financial gain, assisted by Densham.
25. Carl Mould who has currently been to prison for breaches of the Enterprise Act and mis-selling mobility aids to older and vulnerable adults was due to be back in court on the 4th January 2013. Mr Mould did not attend court but later handed himself into police custody. Mr Mould is being charged with fraud offences and was sent to the crown court for the case to be dealt with. Mr Mould was remanded into custody until his hearing at the crown court, which had been adjourned until the 16th April 2013.

26. A farmer from Misterton Irvin Dunn and a neighbouring friend Charlotte Taylor were in court on the 15th of February 2013 for welfare issues around Mr Dunns pig holding, Ms Taylor was looking after the farm whilst Mr Dunn was on holiday making her a legal temporary keeper of the pigs. Both pleaded guilty to animal welfare offences, Taylor was given a conditional discharge and Dunn's sentencing was adjourned until the 18th of April 2013, so probation could provide a report to the court.
27. A Nottinghamshire based driveway trader was due to appear in Nottingham Magistrates court on the 8th April 2013. The trader has been summonsed with offences under the Consumer Protection from Unfair Trading Regulations. The trader had approached people in their homes and carried out poor quality work on their driveways. He had also been aggressive and intimidating with some of his customers.
28. There is still an outstanding arrest warrant for a Mr Hussain after he failed to attend court. He was found selling counterfeit DVDs on Hucknall market. He does have previous convictions for similar matters.

Statutory and Policy Implications

29. This report has been compiled after consideration of implications in respect of finance, equal opportunities, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment and those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

RECOMMENDATION/S

It is recommended that:

- 1) The Committee notes the contents of this report.

PAUL MCKAY

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Background Papers

None

Electoral Division(s) and Member(s) Affected

All

