



## **Trading Standards – update**

### **SUMMARY**

- 1.1 This report has been compiled in response to a request from the Commission for an update of Trading Standards work, highlighting current issues for the Service.
- 1.2 The Trading Standards Section of Environment and Regulatory Services has recently been fundamentally restructured in response to budget savings, the transformation agenda and the changing nature of its work. Previously it comprised 2 teams and more than 20 officers, now it consists of a single team of 13 FTEs providing the full range of services.
- 1.3 The report outlines the broad range of statutory roles of the service and explains how these fit into council and national enforcement priorities. Whilst Trading Standards traditional roles in dealing with weights and measures, rogue traders and counterfeiters is reasonably well understood by the community, other less well publicised roles, responsibilities and services are outlined e.g. illegal money lending, animal health, food standards, protecting the environment etc.
- 1.4 Priority issues for Derby are rogue trading (including counterfeiting), sale of alcohol and cigarettes to under-age consumers and the growing trade in illegal tobacco.

### **RECOMMENDATION**

- 2.1 That the Commission notes the wide range of regulatory services provided by the Trading Standards (TS) Section of Environment and Regulatory Services.

### **REASONS FOR RECOMMENDATION**

- 3.1 Trading Standards is often referred to as an ‘invisible’ profession, as much of its work is preventative in nature. However, Trading Standards’ regulatory role underpins almost every commercial transaction and is essential in maintaining a fair trading environment and therefore supporting the local, regional, national and global economies.

#### 4.1 Introduction

There are approximately 7000 businesses trading in Derby – each subject to regulation by Trading Standards. Trading Standards Officers (TSOs) visit these businesses for a variety of reasons. The visit may be in response to a complaint, a routine market surveillance visit, or an opportunity to visit and advise a trader about the laws relating to his business. There is a national risk rating scheme for all premises and a requirement to visit/audit under the Food Standards Agency Code of Practice. Trading Standards has powers to inspect businesses under most consumer protection legislation and to take samples or make test purchases. Warrants are only needed when entering domestic premises. The opportunity to visit, as and when deemed necessary, ensures that businesses are complying with the law on a day-to-day basis, not just when an officer has informed the trader he would like to visit and received his agreement.

The wide variety of key functional statutory disciplines carried out by the council's Trading Standards (TS) Section are summarised below:

- Food & Agriculture Standards i.e. composition of food, labelling & sampling of food & feed products at manufacturing/retail premises, including nutritional labelling. There is a statutory requirement to appoint a Public Analyst to conduct the testing of food and feed products.
- Legal Metrology i.e. legal compliance of weighing and measuring equipment and goods sold by weight, measure or quantity. Statutory appointment of Chief/Deputy Inspector of Weights and Measures.
- Fair Trading i.e. rogue trading, counterfeit goods (including illicit alcohol and tobacco), doorstep crime, scams, and consumer credit advice to businesses and the public.
- Product Safety i.e. toy safety and electrical safety and many other product-specific pieces of (mainly European) safety legislation. Also, product recalls, advice to business and market surveillance and testing of goods e.g. electric blanket testing. TS also registers businesses for the sale/supply of explosives & poisons.
- Animal Health i.e. protection of the welfare of animals including their transportation and disease control. TSOs attend the weekly cattle markets, as well as the horse & poultry market at weekends and special one-off sales, e.g. the TB (tuberculosis) market. It is also responsible for implementation of the pet passport scheme.
- Age Restricted Products i.e. test purchases, advice, guidance and enforcement to businesses regarding the sale of alcohol, tobacco, butane gas, spray paint, explosives (fireworks) and knives.
- Petroleum Licensing i.e. licensing the storage of petroleum spirit, including the inspection and examination of forecourts and overseeing construction and/or refurbishment of petroleum storage facilities i.e. petrol stations & disused storage tanks.

- 4.2 Research by the Office of Fair Trading (OFT) indicates that council trading standards services across the UK save consumers at least £347million a year (2008 figures) by tackling businesses that trade unfairly and by advising and assisting members of the public to resolve consumer problems. The OFT estimates that for every £1 Trading Standards services spend on this work, consumers save more than £6 as a result.
- 4.3 Consumer protection work contributes to the community's and local government priorities. Effective regulation has been proven to drive up markets and make businesses more profitable e.g. via approved trader schemes – 'Buy with Confidence' is shortly to be launched by Trading Standards in Derby.

For example, Trading Standards work includes taking action:

- to tackle mass marketing scams
- to prevent people being the victim of doorstep crime
- to reduce intellectual property crime
- to improve community health through diet/nutrition and preventing food fraud
- to manage food incidents
- to prevent and control notifiable animal disease outbreaks
- to enforce animal movement control and traceability
- on issues causing economic detriment to consumers and business
- on underage sales e.g. for alcohol, tobacco, knives
- on unsafe consumer products

- 4.4 Trading Standards has long played an important role in protecting the economic well-being of the local community. It has been estimated that there are £6billion worth of transactions that are by weight, measure or quantity in the UK – each transaction regulated by legislation enforced by Trading Standards. Starting as Weights and Measures Departments, employing inspectors to check equipment and goods in shops and markets, the role of Trading Standards has been transformed. It has a huge remit from food standards to fair trading and fraud; illegal money lending to counterfeiting and piracy; farm animal health controls to under-age sales. The remit can also include the recovery of assets from criminals who have gained financially from their criminal activities. This enables Trading Standards to influence and contribute to a wide range of local priorities including the economy, the environment and the building of safer communities. Consequently council Trading Standards services have had to develop an innovative approach to delivering a range of functions that includes literally hundreds of pieces of legislation.
- 4.5 A significant development has been the strengthening of regional support mechanisms and contribution to the national enforcement priorities on fair trading and animal health. These have driven service improvements through the co-ordination of inspections, food sampling and by acting as a forum to share expertise and avoid duplication of effort. They have also provided training, standardised guidance notes and delivery of Consumer Direct (a telephone and online consumer information service). All of this has allowed trading standards to remain a key local service able to interact with every part of the community, whilst dealing with regional, national and international priorities such as animal welfare, counterfeiting and piracy, doorstep crime, environment, food, fraud, health, product safety, scams and underage sales. The government's Consumer Landscape paper will make Trading Standards and the Citizen's Advice Bureau responsible for almost all of consumer protection legislation.

- 4.5 *"In our proposed new regime, Trading Standards will be given responsibility for enforcement of almost all consumer law."* (ref BIS).
- 4.6 There is a growing emphasis now on prevention and intelligence-led enforcement i.e. focusing on the most active rogue traders and where the highest threat to consumers exists; comprehensive consumer and business education programmes and a commitment to work with partners at local, regional and national levels. It is this interaction with businesses, residents, schools and key partners such as the Police and Primary Care Trusts that gives the service an insight into many of the issues facing the community whether these are youth drinking, doorstep crime or poor diet and nutrition.

Trading Standards multi-faceted roles in a variety of areas are outlined in the following paragraphs:

4.7 **Safer communities**

'The risk of becoming a victim of crime has fallen sharply in recent years. Whilst in 1995 the risk was 40%, by 2008 it had fallen to 22%' (Home Office Source: Crime in England and Wales 2007/08).

During tough economic times, consumers may be particularly vulnerable to scams and rogue trading practices such as:

- bogus traders calling out of the blue to offer goods and services such as home repairs, double-glazing or garden maintenance
- product counterfeiting (for example DVDs and clothing)
- unsafe goods (for example toys and fireworks)
- reintroduction of stolen goods to the market place
- criminal deceptions or fraud (for example car clocking and illegal property repairs)
- credit fraud
- illegal money lending
- internet or mail fraud
- contaminated food
- working from home schemes
- premium rate telephone scams
- lottery scams

Many of these crimes have two things in common: they target the vulnerable and often involve sophisticated deception. Trading Standards aim is to substantially reduce such in Derby with the introduction of its 'Buy With Confidence' scheme.

No Cold Calling Zones (NCCZs) – Derby has approximately 100 NCCZs, which increase residents' awareness of the problems of bogus callers, distraction burglars and rogue traders. Trading Standards also gives presentations to organisations on 'doorstoppers', although such work is now under threat due to loss of staff resources.

4.8 **Illegal Money Lending**

Regional IML Teams have been established to help tackle illegal and unlicensed money lending (by loan sharks) with funding from the government.

- 4.8 A loan from an illegal moneylender is, on average, three times the cost of the same loan from someone operating legally. Interest rates of between 8,000% and 117,000% have been uncovered. Many loan sharks will stop at nothing to get their money back.

4.9 **Scams**

Regional 'Scambusters' teams have been set up with government funding to work across council boundaries. They focus on hard-to-tackle doorstep crime, scams and rogue traders. Currently the East Midlands 'Scambusters' team is investigating 2 local businesses on our behalf.

4.10 **Youth disorder**

Anti-social behaviour caused by young people is an increasing problem affecting the lives of many members of the community. Resolving the problem requires the efforts of a multitude of local agencies. Trading Standards are often at the centre of such partnerships and is ideally placed to engage with the youth disorder agenda regulating the sale of age-restricted goods such as fireworks, knives, alcohol, cigarettes and spray paint.

Under-Age Sales - a LACORS and Trading Standards Institute survey of all under-age sales activity in 2008 (i.e. of alcohol, tobacco, knives, DVD and video works, solvents, lighter fuel, spray paint, lottery and fireworks) showed councils were consistently finding that sales were still being made to young persons despite enhanced retailer information, previous council test purchase exercises and legal action.

Nationally, out of nearly 22,000 test purchases made in England and Wales, 17.4 % of retailers and 25.6% of on-licence sellers sold alcohol to young people. On average, 27.4% of retailers sold knives but this was as high as 34% in some regions, with one region being 100%. Each area of testing revealed percentage sales of between 15.6% for tobacco and 34.4% for DVDs and videos.

4.11 **Protecting the Economy**

Trading Standards supports and protects local businesses, communities and individuals by offering advice, education and targeted enforcement, as a last resort.

There is an increase in approved trader schemes, such as 'Buy with Confidence', and the Local Authority Assured Trader Scheme Network (LAATSN) and a move towards the creation of partnerships with local stakeholders and enforcement agencies to tackle scams, rogue practices and rogue traders, loan sharks and credit miss-selling.

Counterfeiting and piracy is estimated to cost the UK economy £30+ billion per annum and could be costing as many as 14,800 jobs in the national economy. A crime once seen as a fairly innocent attack on big business is now seen for what it is – theft. It undermines legitimate businesses' profits, destroys brands and, on occasion, floods the market with unsafe and dangerous products. Profits from counterfeiting are known to be used to finance other areas of serious crime e.g. drug trafficking.

Businesses too are often the victims of scams and frauds and investigations and legal actions take place every year in areas such as invoicing frauds and unfair competition through misleading actions by competitors.

#### 4.12 **Animal Health**

The economic and social effect of an animal disease outbreak can be devastating. This was brought into sharp focus with the Foot and Mouth Disease outbreak in 2001, which resulted in 6 million animals being slaughtered and significant damage to tourism across the country. Add to that past problems with salmonella in poultry, BSE in cattle and the cost to the economy is in excess of £10billion. The controls to prevent this are now at the heart of trading standards work.

#### 4.13 **Improving Public Health**

Trading Standards has a broad role in the public health agenda. It helps to:

- prevent the sales of tobacco, alcohol and solvents to children
- work directly with industry to help ensure that farmed animals and the food we eat is disease free and fully traceable
- ensure food is properly labelled and free from contamination

Smoking remains the biggest cause of avoidable deaths and health inequalities in the UK. Whilst health professionals are working to help people who wish to quit, via smoking cessation services etc, Trading Standards has a major role to play, not only in ensuring children cannot buy cigarettes (from vending machines, over the internet or counter) but also in regulating advertising bans and other controls on the display of tobacco where it is sold; ensuring the correct warnings are displayed on the packs and tackling the supply of counterfeit and illegal (smuggled) tobacco - a significant problem in Derby.

Last year over a quarter of children aged 11–15yrs were believed to have tried smoking, whilst 5% confessed to being regular smokers. Approximately 160,000 children aged 11-15yrs will have started smoking last year.

Plain packaging for cigarettes will be introduced shortly to make the product less visually appealing to younger people. The scheme will be enforced by Trading Standards. Problems are already foreseen that could potentially make the scheme counter-productive. For example, it is difficult to foresee how plain packaging will reduce youth smoking rates when counterfeit cigarettes are easy to obtain and far cheaper to purchase. In addition, the criminals selling them will not require identification proving the buyer to be over 18yrs old.

A significant danger also lies in the smuggling trade. With cigarettes now the most widely smuggled legal product and about 85% of cheap cigarettes sold on London streets being counterfeit, introducing a policy that would only make it easier for criminals to mimic a packet is a serious cause for concern.

#### 4.14 **Food and Farming Industries**

Trading Standards provides essential support to both of these industries through the enforcement of legislation aimed at protecting animals from disease, preventing animals from suffering and maintaining the integrity of our food chain. As part of this role Trading Standards Officers visit farms and livestock markets on a regular basis.

4.14 Trading Standards work is also crucial to the fight against animal disease, from the reduction of bovine tuberculosis to the implementation of controls that prevent the spread of major animal disease outbreaks, including avian influenza and Foot and Mouth disease. Trading Standards attends weekly cattle markets, the horse and poultry market every fortnight and occasional one day sales/special markets i.e. for non-tuberculosis free cattle.

#### 4.15 **Food and Health**

In 2010, 28% of women and 33% of men were classified as obese, costing the national economy £4.5 billion a year. Trends show that diets suffer as households come under increasing financial pressure.

Consumer confidence in the food market is crucial and Trading Standards aims to prevent food fraud, promote consumer choice and encourage healthy eating. It acts against inaccurate food labelling, ensures that compositional standards are met and promotes key health messages directly to businesses. It works to ensure that the consumer can rely on the information provided by industry and make informed choices about the food that they eat.

#### 4.16 **Protecting the environment**

The UK recycled almost 2/3<sup>ds</sup> of all packaging produced in 2008. As governments and international groups set targets to help minimise our environmental impact, it is Trading Standards that ensures a range of environmental issues are addressed at the local level by:

- regulation of excess packaging
- enforcing controls regarding lead and sulphur content in fuel
- controlling the sale of anti-fouling paints and treatments
- controlling the disposal of animal by-products to control diseases in both animals and the public
- contributing to energy efficiency by enforcing legislation that allows environmentally conscious consumers to compare the energy efficiency of electrical products and new cars through A-G labelling, and buildings through the regulation of Energy Performance Certificates for residential dwellings and commercial premises
- enforcement of vehicle weight restrictions.

Landfill tax is paid on top of the normal landfill fees by businesses and councils. It is intended to encourage businesses to produce less waste and to use alternative forms of waste management. A variety of weighing equipment is used to ensure the correct tax is levied on businesses and councils; trading standards checks the continuing accuracy of this and other types of weighing and measuring equipment that is used for trade. For example, trading standards enforces the regulations restricting the weight of lorries, preventing damage to roads and protecting historic road bridges that were not built to carry the weight of modern commercial traffic. It is usually the driver who faces prosecution unless his employer caused or permitted him to cross the bridge in question.

The work is cost effective, in that publicity surrounding enforcement dissuades drivers from breaching weight restriction orders, thus saving on bridge maintenance. In addition investigation and prosecution costs are recoverable from the defendant at the time of conviction.

#### 4.17 **Educating and empowering consumers**

Today's marketplace is complex and fast moving. Increased access to consumer credit and internet shopping have all added to the need for today's consumers and businesses to be knowledgeable and empowered.

Consumer education equips people with the skills to make discerning choices, to sort out problems effectively and to seek further information and help. Whilst laws and markets may change, these skills will enable people to move through life as effective consumers. Consumers have various routes, some of which are aimed at younger people, by which to seek advice and information about their statutory and legal rights, such as:

Consumer Direct – in 2008 Consumer Direct answered almost 1.6 million calls and emails from UK consumers seeking advice and information. Consumer Direct is a telephone and online consumer information and advice service operated by the OFT in partnership with council Trading Standards services. The service will, however, soon be replaced by Citizens Advice Bureau, with effect from April 2012. Issues requiring enforcement action, liaison with traders or extra support (e.g. vulnerable consumers) are referred to Trading Standards for assessment and action.

#### 4.18 **Prioritisation**

In tough economic times, Trading Standards has to focus on local, regional and national priorities to help stimulate the local economy through supporting its local businesses and also to ensure it properly protects individuals and communities who are vulnerable to scams and rogue trading practices.

An economic slowdown has an impact on public safety and public protection. There is an expectation that counterfeiting, loan sharks and rogue trading will increase as opportunists prey on the vulnerable, placing further demands on the service. Trading Standards has a significant role to play in supporting economic, social and environmental wellbeing and the collective challenge is to turn a positive spotlight onto this area of activity. For example, there may be a rise in local tourism as destinations become more attractive. This may mean further demands on councils to inspect and regulate businesses and activities associated with tourism.

### **OTHER OPTIONS CONSIDERED**

5.1 Not applicable

**This report has been approved by the following officers:**

<b>Legal officer</b>	n/a
<b>Financial officer</b>	n/a
<b>Human Resources officer</b>	n/a
<b>Service Director(s)</b>	John Tomlinson
<b>Other(s)</b>	n/a

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<b>List of appendices:</b>	Appendix 1 – Implications

<b>IMPLICATIONS</b>
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**Financial and Value for Money**

- 1.1 Trading Standards controllable budget for 2011/12 is £579k, equivalent to a cost of £2.41 per capita .

In a recent survey, the Office of Fair Trading estimated that for every £1 trading standards services spend on activities associated with unfair trading, consumers saved more than £6 as a result.

**Legal**

- 2.1 Trading Standards is a regulatory service discharging the council's statutory duties under approximately 80 Acts of Parliament and several thousand associated Regulations

**Personnel**

- 3.1 The Section has recently been fundamentally restructured over the past 2 years. Formerly comprising an Inspections team and Enquiries team of more than 20 FTE posts, it now comprises 13 FTE posts in a single, multi-disciplinary team, including 9 TSO posts (of which 2 are currently vacant pending recruitment).

**Equalities Impact**

- 4.1 It is an unfortunate fact that criminals will often target the most vulnerable members of society. The work of Trading Standards in preventing crime, supporting legitimate businesses and taking enforcement action against rogue traders is essential in protecting all members of the community but, in particular, the victims of crime.

**Health and Safety**

- 5.1 Not applicable

**Environmental Sustainability**

- 6.1 The roles and responsibilities of Trading Standards in protecting the environment are explained in paragraph 4.16 above

**Asset Management**

- 7.1 Not applicable

## **Risk Management**

8.1 Not applicable

## **Corporate objectives and priorities for change**

9.1 The work of the Council's Trading Standards team directly supports 3 key outcomes in the council plan – 'a thriving and sustainable economy'; 'good health and wellbeing' and 'being safe and feeling safe'