

Enforcement Strategy for Illicit Tobacco and Alcohol

SUMMARY

- 1.1 The Regeneration and Culture Overview and Scrutiny Board requested an update following an earlier report by the Strategic Director of Neighbourhoods to The Planning Housing and Leisure Board on 08 April 2014 (See Appendix 2).

The following questions were put forward:

- 1.2 Regional partnership working opportunities – have these been explored?
- Regional partnership and working opportunities are already in place and are delivered through Trading Standards East Midlands (TSEM) which includes the following authorities: Derby City, Derbyshire, Nottingham City, Nottinghamshire, Leicester City, Leicestershire, Northamptonshire and Lincolnshire.
 - In relation to the growing problem surrounding illicit tobacco TSEM appointed a Tobacco Control Co-ordinator in 2013 (for three years) to co-ordinate tobacco enforcement in the region, the role includes intelligence gathering and the co-ordination of targeted enforcement activities in each Local Authority area.
 - The role of the co-ordinator is to develop/re-establish links with other enforcement agencies including the Police and Her Majesty's Revenue and Customs (HMRC). It is worth noting that are the lead authority for duty diverted tobacco and alcohol, whereas counterfeiting and labelling is a Trading Standards duty. Derby City has one of the highest rates in the country in relation to illicit products especially tobacco with over sixty premises identified in the last three years as having sold or supplied illicit tobacco.
 - A number of enforcement techniques have been used to tackle the problem including; warning letters, disruption exercises (including the use of sniffer dogs), test purchases, surveillance. Prosecutions are rare due to the evidential requirements, for example; proof of supply and problems identifying suspects as well as the movement of small quantities (to order) are hurdles that require a great deal of resource to overcome.
 - Derby City Trading Standards team has scaled back its involvement in a number of regional activities due to local demands and priorities as well as a significant reduction in Trading Standards staff due to budget pressures.

1.3 More holistic approach to enforcement within the authority?

- Officers carrying out Trading Standards duties are professionally qualified, which limits other officers of the authority from undertaking work in this area. However, Trading Standards is part of a much wider Regulatory Service, where skills and experience can be drawn upon to assist Trading Standards Officers carry out their range of duties.
- Trading Standards work closely with other teams within Environment & Regulatory Services, especially Licensing where alcohol is concerned. A number of Licence Reviews have been brought or supported by Trading Standards as part of its duties as a 'Responsible Authority' for the purposes of the Licensing Act 2003.
- Other teams provide valuable intelligence when carrying out their duties and this information is shared regionally and nationally.
- Trading Standards have used officers from other teams within Environment & Regulatory Services to carry out test purchases and joint visits/inspections.
- Trading Standards also work with Community Safety Officers, Council Tax, Business Rates and Benefit Investigators within the authority. Having these services located in one building has improved work streams but more work is needed to improve the sharing of intelligence within the authority.
- It would greatly assist in the detection and prevention of crime if Trading Standards had access to an Accredited Financial Investigator (AFI). Currently, the Authority does not employ an AFI other Authorities across the country use AFI's to retrieve financial assets from offenders using their powers under the Proceeds of Crime Act 2002. The work of an AFI could be integrated across all of the Council's regulatory functions.

1.4 LGA – pursue powers for Trading Standards officers to assist the Council in tackling enforcement and achieve prosecutions?

- Currently, Trading Standards Officers have wide ranging powers including the inspection of business premises (without notice), to respond to complaints and to make test purchases of goods and services. Trading standards also have powers to seize items as evidence for criminal investigations. Trading standards officers can only enter domestic premises by invitation or through the execution of a court warrant. Trading standards officers have no powers of arrest but can be assisted by the Police if an arrest is required.
- The LGA, working with the Trading Standards Institute, has lobbied the Government (January 2014) to amend the Draft Consumer Rights Bill to ensure Trading Standards inspection powers are retained. This would ensure that councils could inspect premises without having to give a 48 hour notice period which has been proposed in the Bill. A requirement to provide advance notice of inspection would negatively impact on the detection of tobacco and alcohol

crime.

- Trading standards are dealing with more complex cases, including fraud (food and non-food), however the real issues for Trading Standards is not powers but resources.
- Currently, the trade in illegal tobacco in Derby is of greater significance than illegal alcohol, although both pose substantial risks to consumers in terms of the potential impacts on their health, safety and welfare. The trade in illicit goods also has strong links with organised crime and criminal gangs. Selling illegal tobacco and alcohol is a criminal offence, reduces Government income from tax revenues and is damaging to the local/national economy.

RECOMMENDATION

- 2.1 That the contents of the report to be noted.

REASONS FOR RECOMMENDATION

- 3.1 This is to provide Members with an update following the report of the Strategic Director of Neighbourhoods on 08 April 2014 (see appendix 2).

SUPPORTING INFORMATION

- 4.1 This is to provide Members with an update following the report of the Strategic Director of Neighbourhoods on 08 April 2014 (see appendix 2). Brent & Harrow Trading Standards Service has secured 17 confiscation orders against convicted offenders including those caught selling clocked cars and counterfeit goods in recent years. The benefit total in these 17 cases amounts to confiscation orders totaling £1.4 million.
- In December 2012, a conman selling fake t-shirts was ordered to pay back more than £200,000 to Haringey Council after being jailed for producing and selling the counterfeit goods. The money will be divided between the council and local police force.
 - Nottinghamshire County Council has secured around £200,000 in cash and assets gained illegally by criminals in the past four years. It included successful prosecutions against a rogue trader targeting elderly and vulnerable homeowners, fraudsters selling counterfeit goods and businessmen who conned life savings from the elderly and disabled for mobility aids they never delivered.
 - A man who ran an unlicensed sex shop selling pornographic films and magazines from his home was ordered to pay back Leeds City Council £55,000 after a joint prosecution alongside West Yorkshire Trading Standards Service.

Norwich City Council became the first local authority to use the Proceeds of Crime Act to reclaim £40,000 from a criminal landlord, who failed to comply with House of Multiple Occupancy license conditions in October 2012.

The case studies above were taken from an LGA press release (13 June 2013) – the complete press release can be found using the following link:

http://www.local.gov.uk/media-releases/-/journal_content/56/10180/4029113/NEWS

OTHER OPTIONS CONSIDERED

5.1 None applicable to this update report.

This report has been approved by the following officers:

Legal officer Financial officer Human Resources officer Estates/Property officer Service Director(s) Other(s)	Lucie Keeler John Tomlinson, Director of Environment & Regulatory Services
For more information contact: Background papers: List of appendices:	Doug Walkman – Team Leader Trading Standards Trading Standards Enforcement Strategy for Illicit Tobacco and Alcohol Appendix 1 – Implications

IMPLICATIONS

Financial and Value for Money

- 1.1 The financial implications from this update report, if Members decided to employ an Accredited Financial Investigator (AFI) would likely to cost around £30,000 (plus on costs) for a full time equivalent officer. This cost could be shared across the Department (Environment and Regulatory Services) or the Council as a whole.

Legal

- 2.1 The Council currently has a statutory duty to meet its obligations which are deployed by the Trading Standards Service in respect to counterfeit goods.

Personnel

- 3.1 As well as employing the services of an AFI, additional staff resources may be required to carry out the necessary level of investigative and surveillance work required to bring about an effective prosecution and positive outcome to a complex case.

IT

- 4.1 For the purposes of market surveillance, access to social media sites, such as Facebook, would improve our intelligence/enforcement capabilities.

Equalities Impact

- 5.1 None arising directly from this update report.

Health and Safety

- 6.1 None arising directly from this update report.

Environmental Sustainability

- 7.1 None arising directly from this update report.

Property and Asset Management

- 8.1 None arising directly from this update report.

Risk Management

- 9.1 None directly arising from this report.

Corporate objectives and priorities for change

- 10.1 The information set out in this report supports the corporate priorities to ensure the people in Derby will **enjoy good quality services that meet local needs.**

