

Trading Standards Enforcement Strategy for Illicit Tobacco and Alcohol

SUMMARY

- 1.1 Although part of a wider strategy for tackling counterfeit goods in the city, illicit alcohol and tobacco are the main enforcement priorities for Trading Standards in the medium to long term. The draft strategy sets out a plan to combat this form of illicit trading in the city through a programme of sustained enforcement activity, advice to businesses and consumers and partnership working with stakeholders
- 1.2 The trade in illicit/counterfeit goods has strong links with organised crime and criminal gangs and is a growing problem in the city. Criminals at the top of chains that smuggle and distribute e.g. illegal tobacco are often involved in other crimes such as drug dealing, money laundering, people trafficking and even terrorism. Young and/or vulnerable people are often targeted by these criminals, exposing them to a variety of high risk situations.
- 1.3 Derby is a known hotspot for sales of illicit tobacco and it is estimated that 1 in 7 cigarettes sold in the city are illicit. Incidents involving the supply of illicit alcohol are also growing locally, regionally and nationally. In Derby, illegal alcohol has been found by Trading Standards for sale at retail outlets on 8 occasions. Some of these products have been found to contain cleaning fluid and other harmful substances. Of the 45 known illicit products on the market, approx. 50% have been found (and seized by Trading Standards) in the city.
- 1.4 A strategy to tackle this escalating problem is therefore urgently required, both to protect consumers and the interests of the majority of local businesses that continue to trade legitimately

RECOMMENDATION

- 2.1 That the Board considers and comments on the contents of the report and the draft strategy for tackling the sale of counterfeit/illicit goods in the city

REASONS FOR RECOMMENDATION

- 3.1 To highlight the problems associated with the trade in counterfeit/illicit goods, notably tobacco and alcohol, and the impact such illegal trading has on the community and local economy.

- 3.2 To outline the work already being undertaken by Trading Standards to tackle the problem and agree a future control strategy

SUPPORTING INFORMATION

- 4.1 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
- 4.2 Smoking prevalence remains high in the UK and price is one of the most effective control measures. The World Health Organisation estimates that a 10% rise in price can reduce tobacco consumption by as much as 4%. Illegal tobacco is often less than half the tax-paid price of legally sold tobacco, and this maintains smokers in their habit and encourages young people to start smoking. Smoking is the leading cause of early death and disease in the East Midlands. It is our biggest contributor to health inequalities and accounts for up to half the difference in life-expectancy between the richest and the poorest groups in our society. In the UK, over 80,000 avoidable deaths are caused every year as the result of a smoking-related illness and one in every two long-term users of tobacco will die early.
- 4.3 Tackling illegal tobacco is a vital part of a broader programme, which is shifting the social norms around all tobacco use - not just illegal - to make smoking less attractive, accessible and affordable.
- 4.4 Government statistics suggest that, nationally, 90% of all the cigarettes seized in 2008/9 were either counterfeit or non-duty paid. Legitimate cigarettes cost between £6.00 and £7.50 for a packet of 20. Our information suggests that illegal cigarettes costs as little as £3.00 for 20. The low price of illegal tobacco therefore means that smoking cessation initiatives can be seriously undermined.
- 4.5 The tax raised (excise duty and VAT) on cigarettes is equal to £10 billion pa. It is estimated that 11% of cigarettes and 49% of hand-rolling tobacco sold is illegal. This means that up to £2.2 billion in revenue is lost annually. The market for illegal tobacco and alcohol is completely uncontrolled, meaning there is a high risk of the products finding their way into the hands of young people.
- 4.6 Derby is a hotspot for illicit tobacco, whether smuggled, bootlegged or counterfeit. Illegal tobacco is widely available in many areas, especially poorer communities, across the city.
- 4.7 In Derby, it is estimated that 1 in 7 cigarettes sold are illicit and that there are at least 35 shops dealing in illegal tobacco. Tests carried out on hand-rolling tobacco seized in the city by Trading Standards have shown it to contain between 6 and 7 times the permitted amount of lead and cadmium in legitimate tobacco. Counterfeit cigarettes do not comply with the European 'burn through' safety standards meaning that, if left unattended, they will continue to burn through to the end. This increases the risk to the smoker of causing a fire.

- 4.8 In 2012/13, 78% of all intelligence logged by Derby Trading Standards relating to counterfeit goods was specific to illegal tobacco. A further 9% related to illegal alcohol. This compares to the 25% of all logs reported nationally to 'Crimestoppers' and the Intellectual Property Office (IPO).
- 4.9 Incidents involving the supply of illicit alcohol are growing locally, regionally and nationally. In Derby, illegal alcohol has been found at retail outlets on many separate occasions. A high proportion of these products contain cleaning fluid and other harmful substances. Of the 45 known illicit products on the market, 50% of the brands have been discovered (and seized) in Derby.
- 4.10 In 2013, the Trading Standards East Midlands (TSEM) appointed a tobacco and alcohol co-ordinator to co-ordinate a joint approach to the problem by Trading Standards and Public Health Teams
- 4.11 In early 2013, Operation Rocha was launched, a joint operation with Derbyshire Police, HMRC and Trading Standards to coordinate a response to prevalence of illegal tobacco in Derby/Derbyshire. The driver for the operation was the identification and mapping of a local organised crime group (OCG) operating in the supply of illegal tobacco.
- 4.12 The disruption tactics applied by Trading Standards has, over time, conditioned the sellers of illicit goods to store them in small quantities so as to make them easy to secrete or, if discovered, to claim that the items are for personal use only. We believe that the sellers re-stock these small stashes regularly, using runners to ferry goods from hidden locations away from the business premises. Whilst highly profitable for the traders concerned, Trading Standards are receiving an increasing number of complaints from legitimate businesses that they cannot compete with the illicit trade and that this is severely limiting their potential for growth.
- 4.13 The intelligence gathered from joint initiatives such as Operation Lurcher and Operation Rocha shows that home addresses and storage units are often used to store larger quantities.
- 4.14 The year-on-year reduction in service resources from 2010 to date and the level of threat posed means that tackling counterfeit and illegal tobacco and alcohol in Derby take precedence over all other anti-counterfeiting work. Anti-counterfeiting work will only take place outside these priorities where:
- The fake items pose a safety risk to consumers; and/or
 - The work contributes to the Services' on-going commitment to joint working with other enforcement agencies; and/or
 - The work is funded externally i.e. by a partner or stakeholder.
- 4.15 The draft strategy (see appendix 2) contains several key proposals to tackle the issue effectively: a focus on consumer awareness; participation with industry; partnership working with stakeholders and targeted enforcement action

- 4.16 It is the over-riding aim of Trading Standards to protect consumers and provide a fair trading environment for local businesses. The provision of easily accessible accurate, timely and specific information is essential to the success of this strategy. The public, retail supply chain, industry and other stakeholders need to be aware of the risks, extent, and availability of counterfeit goods. Through highlighting the issue and risks involved to both the public and distributors, it is possible to undermine the market for counterfeit goods locally. The strategy aims to achieve this through a combination of quality advice, raising consumer awareness through the media and close collaboration with the industry, trade associations, manufacturers and wholesalers.
- 4.17 Trading Standards will continue to engage and enhance co-operation with law enforcement agencies and regulatory bodies. It is important for law enforcers to recognise and understand the threat from counterfeit goods and to allocate resources appropriately. We already work closely with Derbyshire Police, HM Revenue and Customs (HMRC), Derbyshire Trading Standards and other council teams to ensure that the most recent information and intelligence is made available.
- 4.18 The service draws on information provided from a wide range of sources, including consumers, traders, law enforcement and industry in assessing the threat from illegal tobacco and alcohol to the local economy. Each incident in Derby will be analysed to understand the modus operandi, identify the methods of manufacture, distribution mechanisms, preferred routes and any weakness in the current regulation and legislation. This will ensure a focused, intelligence-led approach to the monitoring of the market and that intelligence is shared with our partners. In parallel with the primary objective of protecting the consumer, Trading Standards will, when appropriate, undertake criminal investigations with a very clear focus on identifying those persons knowingly engaged in the manufacture, distribution and supply of counterfeit goods.

OTHER OPTIONS CONSIDERED

- 5.1 None applicable

This report has been approved by the following officers:

Legal officer Financial officer Human Resources officer Service Director Other	John Tomlinson
For more information contact: Background papers: List of appendices:	Julian de Mowbray (Head of Trading Standards & Bereavement Services) None Appendix 1 – Implications Appendix 2 – Draft strategy for the control of counterfeit/illicit goods in Derby

IMPLICATIONS

Financial and Value for Money

- 1.1 No specific implications. However, criminal investigative work is labour-intensive and the current level of staff resources restrict activities mainly to disruption exercises
- 1.2 The growth in illicit trade has severe implications for businesses trading legitimately, which are unable to compete effectively in the market

Legal

- 2.1 No specific implications. However, more effective enforcement work resulting from implementation of this strategy will result in more prosecution cases being taken – each of which will be resource-intensive in its own right

Personnel

- 3.1 On occasion, 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.

Equalities Impact

- 4.1 Derby is a hotspot for illicit tobacco, whether smuggled, bootlegged or counterfeit. Illicit alcohol is also widely available and the trade in such goods is driven by their pricing and availability. Inevitably this means that the additional risks to health that go hand-in-hand with their consumption are magnified in the more deprived communities across the city.

Health and Safety

- 5.1 No specific implications

Environmental Sustainability

- 6.1 No specific implications

Property and Asset Management

- 7.1 No specific implications.

Risk Management

8.1 No specific implications

Corporate objectives and priorities for change

9.1 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**

Draft strategy for the control of counterfeit/illicit goods in Derby

Executive Summary

This is the first anti-counterfeit/illicit goods control strategy published by Derby City Council Trading Standards that tackles the availability of counterfeit goods in Derby. The strategy sets out a plan to combat counterfeiting in the city through a sustained programme of enforcement action, communication and partnership working.

Trading Standards is approaching the issue on three broad fronts and in 2014/15, with three separate work streams. The priority for the next three years is the control of illicit and counterfeit tobacco and alcohol by:

1. Communication

We will ensure consumers and traders have sufficient information about counterfeit goods; how to avoid them and how to report any related suspicions to the Service or its partner agencies.

2. Partnership Working

We will participate in all local/regional and national initiatives to tackle counterfeiting. Trading Standards will continue to forge close working relationships with law enforcement agencies and other regulatory bodies to ensure an awareness and recognition of the threat from counterfeit goods and encourage collaborative working, where appropriate.

Trading Standards will continue to work closely with all relevant sectors of industry, to encourage a focus on the threat posed by counterfeiters.

3. Enforcement

We will conduct a continuous threat assessment of the risk from counterfeit goods, based on all known incidents in Derby as well as trends in the region and the UK.

Undertaking targeted intervention and bringing offenders to justice, where appropriate, through prosecution and confiscation of the assets of those involved. Other enforcement approaches will be applied when necessary including disruption tactics, days of action, the use of the Licensing Act provisions and joined up action.

Derby City Council's Corporate Objectives

The work of the Trading Standards Service ties into the following corporate priorities:

- tackling rogue trading by targeting the worst offenders.
- working with partners from the police and local businesses to focus on alcohol-related crime and disorder, public nuisance and under-age sales.

At a Departmental level, the Service's priorities have been identified as tackling rogue trading, counterfeiting (specifically illicit tobacco and illicit alcohol), doorstep crime and underage sales of alcohol.

Derbyshire Police and Crime Plan

The relevant priorities which have been set by the Derbyshire Police Commissioner include tackling organised crime groups and countering alcohol-related crime.

Counterfeiting – The Facts

Intellectual Property crime is a serious problem in Derby for three main reasons:

- It damages the city's economic wellbeing – affecting big business but also smaller businesses like retailers who rely on genuine commerce to earn a living. Local newsagents, for example, report that the supply of illicit tobacco in the city can cost them as much as £300 per week in lost revenue.
- Counterfeit goods can pose a considerable risk for consumers – through dangerous goods such as fake medicines, electrical items or counterfeit/illicit alcohol containing dangerous substances. There have now been four incidents where alcohol that has been seized by Trading Standards has been found to contain cleaning fluid and two incidents of fake electrical products being found to be unsafe.
- Those engaged in counterfeiting and piracy are often involved in other criminality – including drugs and weapons smuggling, people trafficking, money laundering and child exploitation – as it provides an easy way for them to make a profit to fund the other illegal activities they are involved in. Intelligence suggests that at least two international organised crime groups are currently operating in the city.

Examples of counterfeiting in Derby

In the last four years Trading Standards has taken forward a variety of legal actions in the area of intellectual property crime. With reduced resources, the focus has been on alcohol, cigarettes and unsafe products.

In November 2011, a Derby man was successfully prosecuted for copying and supplying Microsoft Xbox games via the Internet.

Similarly, in 2011 a local male and female were warned after their workplace DVD film copying business was disrupted by officers from the Service. The workplace was one of Derby's most important employers.

In April and August 2011, large-scale seizures of illicit and counterfeit alcohol were made. In total 10,050 litres of contaminated vodka were seized and either handed to

HMRC or destroyed following the granting of a condemnation order. Further action against the individuals could not be taken due to lack of evidence and to protect a source of intelligence. However, as a result Trading Standards contributed to two alcohol licence reviews, which resulted in the Licensing Sub-committee revoking the premises licenses.

Additionally, Trading Standards together with Derbyshire Police's 'D' Division Licensing Team has intervened on at least five occasions to deny an individual who has proven links to illicit goods obtaining an alcohol premises licence.

In September 2013, a Derby woman was successfully prosecuted for supplying illicit alcohol which was found to be contaminated with tertiary butanol and duty diverted. In total 550 litres were seized and destroyed. In 2012, 60% of all illicit alcohol seizures in the East Midlands were recovered in Derby.

In October 2013, a Derby man was successfully prosecuted for supplying unsafe electrical goods via the internet. The plugs were fake Apple-branded products, which posed a risk of fire and causing electric shocks to the user.

Behind the scenes, tobacco seizures have continued to dominate Trading Standards' time and resources. In 2012/13 a total of 33 visits to tobacco premises were made and seizures of 14,010 cigarettes and 8.5kg of hand-rolling tobacco resulted. The total retail value of the seized items equalled £7200. In 2013/14 significant seizures followed, these totalled 350,860 cigarettes and 559.25kg of hand rolling tobacco. The retail value of these seizures equals £270,000.

The majority of these actions resulted in written warnings to the person found in possession of the tobacco. As noted, at many of the incidents it was not possible to obtain sufficient evidence to show two key requirements in law. First, that the tobacco was possessed for the purposes of supply; and/or second that the business owner was present at the time. In other instances, the amount of tobacco recovered was so small that it would not have been practical to take formal legal action. This is not uncommon in the field of illicit tobacco. The National Tobacco Survey 2012/13 shows that of the 77% of Councils that undertook illicit tobacco investigations, only 37% of the work resulted in prosecution.

Alternative approaches have been adopted, such as prosecutions for out of date food offences where shops were believed to be fronts for illicit supply. In 2013, the city's self-storage units were targeted and cash seizures from suspects totalled £3500 and a vehicle worth £15,000 was seized.

Derby City Trading Standards

The Trading Standards team comprises 13 officers and is divided into 2 groups, one of which specialises in fair trading issues and leads on anti-counterfeiting and illicit goods investigations.

The specialism also has responsibility for the investigation of unfair trading practices, doorstep crime and consumer advice. The specialism works principally from statutory powers under the Consumer Protection From Unfair Trading Regulations.

The Regulations authorise Trading Standards Officers to enter business premises in the furtherance of their duties and seize items suspected of being concerned in breaches of the Regulations and associated legislation. The specialism conducts investigations in accordance with all relevant legislation and submits recommendations for prosecution to the city council.

Cases involving counterfeit items are normally prosecuted using the Trademarks Act 1994, carrying a maximum sentence of 10 years imprisonment. In addition, money-laundering activity in respect of the proceeds of crime can now be dealt with by the Proceeds of Crime Act 2002. In 2011, Trading Standards and the Derbyshire Police Economic Crime Unit initiated a joint working relationship, now reinforced by an agreed Memorandum of Understanding (MOU), to be used in future joint investigations.

Consideration will now be given to using the Fraud Act 2006 for these types of cases. Civil injunctions will also be relied upon where appropriate.

The types of legal action open to the Service range from warnings, simple cautions, prosecutions heard at Magistrates Courts, through to large Crown Court trials on issues of conspiracy and wider fraud. Evidence will always be required to show that counterfeit/illicit goods were sold, offered for sale or possessed for the purposes of supply. Administrative penalties are also now being used, such as Council Licensing Committee reviews of premises alcohol licence holders.

Illicit Tobacco and Alcohol as Priorities

Smoking is the leading cause of early death and disease in the East Midlands. It is the biggest contributor to health inequalities and accounts for up to half the difference in life expectancy between the richest and the poorest groups in our society. In the UK, over 80,000 avoidable deaths are caused every year as a result of a smoking-related illness and one in every two long-term users of tobacco will die prematurely.

Tackling illicit tobacco is a vital part of a broader programme that is shifting the social norms around all tobacco use - not just illegal - to make smoking less attractive, accessible and affordable.

The Derby and the East Midlands is a hotspot for illicit tobacco, whether smuggled, bootlegged or counterfeit. Illicit tobacco is widely available in many areas, especially poorer communities, across the region and in Derby.

Smoking causes a vast and entirely preventable toll of death and disease. In England alone it kills more than 80,000 people each year and affects the quality of life for many more.

Smoking prevalence remains high in the UK and price is one of the most effective tobacco control measures. The World Health Organisation estimates that a 10% price increase can reduce tobacco consumption by 4%. Illicit tobacco is often less than half the tax-paid price of legally sold tobacco and this helps smokers to maintain their habit and encourages young people to start smoking.

Government statistics suggest that 90% of all the cigarettes seized in 2008/9 were either counterfeit or non-duty paid. Legitimate cigarettes cost between £6.00 and

£7.50 for a packet of 20. Our information suggests that illicit cigarettes cost as little as £3.00 for 20. As noted, the low price of illicit tobacco means that smoking cessation initiatives are often undermined.

The tax raised (excise duty and VAT) on cigarettes is equal to £10 billion per annum. It is estimated that 11% of cigarettes and 49% of hand-rolling tobacco sold is illicit. This means that there is up to £2.2 billion in tax revenue lost annually.

The market for illicit tobacco and alcohol is completely uncontrolled, meaning there is a high risk of the products finding their way into the hands of young people.

In 2013, the Trading Standards region for the East Midlands (TSEM) appointed a tobacco and alcohol co-ordinator to co-ordinate a response from Trading Standards and Public Health Teams to the problem.

In early 2013, Operation Rocha was launched - a joint operation with Derbyshire Police, HMRC and Trading Standards to coordinate a response to the prevalence of illicit tobacco in Derby/Derbyshire. The driver for the operation was the identification and mapping of a local organised crime group (OCG) operating in the supply of illicit tobacco.

In 2012/13, 78% of all intelligence logged by the Service relating to counterfeit goods was related to illicit tobacco. A further 9% related to illicit alcohol. This compares to the 25% of all logs reported nationally to Crimestoppers and the Intellectual Property Office (IPO).

In Derby it is estimated that 1 in 7 cigarettes sold are illicit. Tests carried out on hand-rolling tobacco seized in the city by Trading Standards has shown it to contain between 6 and 7 times the amount of lead and cadmium compared with legitimate tobacco.

Counterfeit cigarettes do not comply with the European 'burn through' safety standards, meaning that, if left unattended, they will continue to burn through to the end. This increases the risk to the smoker of causing a fire.

Incidents involving the supply of illicit alcohol are growing locally, regionally and nationally. In Derby, illicit alcohol has been found in supply at retail outlets on 8 occasions. Many of these have been found to contain cleaning fluid and other harmful substances. Of the 45 known illicit products on the market, 50% of the brands have been discovered and seized in Derby at one time or another.

Trading Standards now has to adapt to this escalating challenge. The ability to test purchase tobacco and alcohol from the network of local shops that are known to sell illicit tobacco is severely restricted as the officers are not known to or trusted by the sellers. Covert test purchasing was introduced from August 2011 onwards and, so far, the operations have obtained positive results.

The disruption tactics applied by Trading Standards have conditioned the sellers of illicit goods to store the illicit items in small quantities so as to make it easy to secrete or, if discovered, to claim that the items are for personal use only. We believe that the

sellers restock these small stashes regularly, using runners to ferry goods from hidden locations some distance away from the business premises.

The intelligence gathered from joint initiatives such as Operation Lurcher and Operation Rocha shows that home addresses and storage units are used to store larger quantities.

The reduction in Service resources from 2010 onwards and the level of threat posed, means that tackling counterfeit and illicit tobacco and alcohol in Derby takes precedence over all other anti-counterfeiting work. Anti-counterfeiting work will only take place outside these priorities where:

- The fake items pose a safety risk to consumers; and/or
- The work contributes to the Services' on-going commitment to joint working with other enforcement agencies; and/or
- The work is funded externally i.e. by a partner or stake-holder.

Anti-Counterfeiting Strategy

Objectives

Trading Standards will develop and implement strategic and operational measures to minimise the risk of counterfeit goods reaching consumers.

Programme of Activity

1. To provide reassurance to the residents of Derby through the provision of balanced, accurate and timely information, which will allow informed choices to be made on why not to buy and how to avoid counterfeit goods.
2. To encourage reporting and continue to investigate all referrals to Trading Standards of suspected counterfeit alcohol and tobacco.
3. To deliver (and constantly update) a strategic threat assessment of the availability of counterfeit goods in Derby.
4. To fully support the East Midlands Tobacco Co-ordinator and participate in local, regional and national initiatives to combat counterfeiting.
5. To inform and educate partner enforcement agencies on how their work impacts on the work of Derby's anti-counterfeiting strategy, to ensure all parties can work better together.
6. To disrupt the market for counterfeit alcohol and tobacco in Derby.
7. To increase the risk of prosecution to those involved locally in counterfeiting.

8. To identify the drivers behind this criminality and influence changes in domestic and international legislation to increase the risk to counterfeiters and reduce the market.

1. Communication

It is the over-riding aim of Derby City's Trading Standards to protect consumers and provide a fair trading environment for local businesses. In achieving this aim, effective communication is a critical component.

The provision of easily accessible accurate, timely and specific information is key to the

success of this strategy. The public, retail supply chain, industry and other stakeholders need to be aware of the risks, extent, and availability of counterfeit goods. Through highlighting the issues and risks involved to both the public and distributors, it is possible to undermine the market for counterfeit goods locally.

Counterfeiting is a complex issue entwined in consumerism and product branding. Unsurprisingly it attracts intense media interest. It is vital that a balanced message is communicated to the public. It is easy to alarm consumers to the extent that they stop purchasing certain brands of products that may be perfectly legal, with the resulting detrimental effect on business. To this extent Trading Standards will use all appropriate opportunities through Derby City Council's Communications Team to disseminate information to assist in raising consumer awareness of this issue.

Consumer Awareness

This strategy does not attempt to educate the public in identifying counterfeit goods. Sometimes the counterfeits are poor and easily detectable, but more often they are accurate copies of the original and visual examination by the untrained eye will not always identify them as fakes. The strategy is designed to give the public sufficient information about the existence of counterfeits; advice on how best to avoid them and what to do if they are suspicious about any shop or seller.

Media Coverage

- Trading Standards will publicise the recovery of counterfeit goods when it is suspected of reaching a retail level.
- When considering publicity of a seizure/hazard warning we will collaborate with all stakeholders to ensure a clear and consistent message is delivered to the public.
- In order to act as a deterrent and provide reassurance that action is being taken, television, radio and press coverage will be actively sought in relation to seizures, arrests, investigations, court proceedings, sentences and disposal concerning counterfeit goods, wherever appropriate.
- Consideration will always be given to participating in any documentaries, programmes or articles reporting counterfeit goods in a balanced and proportionate manner.

Advice

- Trading Standards will publish advice and information concerning counterfeit goods on its webpages.
- Any seizure of counterfeit goods will be published on the council's website and more widely, if necessary
- Trading Standards will continue to work with other regulators and professional bodies in developing and publishing advice for the public and key stakeholders. For example, joint guidance is planned with the council's Licensing Team for new alcohol licence applicants
- Particular audiences will be targeted to increase awareness e.g. specific groups or demographic sectors that may be at risk

Industry Participation

Close and effective collaboration with the private sector industries engaged in the genuine manufacture, distribution and sale of goods is a vital strand of this strategy. Trading Standards will continue to develop close links with all relevant areas of industry engaged in supplying alcohol and tobacco in the interests of safeguarding economic wellbeing.

Trading Standards will continue to develop participation with industry, meeting with trade associations and individual manufacturers and wholesalers to develop relationships, ensuring communication channels are open and effective.

These relationships will be managed in light of the council's other obligations, such as the Public Health Tobacco Control Declaration and World Health Organisation objectives.

Anti-counterfeit Enforcement Conference

- Trading Standards will invite UK spirits and tobacco industry representatives to an Anti-Counterfeit Enforcement meeting to share information and intelligence gathered concerning counterfeit goods. This meeting will result in a watch-list of the counterfeit goods most at risk of being encountered in Derbyshire. This list will be used to increase vigilance and market surveillance of these products from local retailers, wholesalers and manufacturers.
- Large wholesalers represent a significant link in the legitimate goods supply chain. Trading Standards will engage local businesses at the wholesale level, work closely with them, support high standards of distribution practice and encourage continued and increased vigilance in their purchase and supply of goods.
- Trading Standards will continue to support steps taken by manufacturers to protect their products that are known to be at risk from counterfeiting.

- A watch-list of the goods most susceptible to counterfeiting will be developed and shared with appropriate stakeholders and used to increase vigilance in respect of such products.

2. Partnership Working

Law Enforcement and Regulatory bodies

Trading Standards will continue to engage and enhance co-operation with law enforcement agencies and regulatory bodies. It is important for law enforcement agencies to recognise and understand the threat from counterfeit goods and to allocate resources where appropriate and necessary. We will work closely with Derbyshire Police, HM Revenue and Customs (HMRC), Derbyshire Trading Standards and other Derby City Council Teams to ensure that the most recent information and intelligence is made available.

HM Revenue and Customs

- Trading Standards and HMRC have developed information exchange agreements with each other to enhance partnership working when combating the availability of counterfeit goods, particularly alcohol and cigarettes.
- Trading Standards will seek to develop awareness training to HMRC staff concerning the use of the information sharing agreement, the local risks of counterfeiting, routes of transit, target profiles and trends of manufacturing, to enable a more focused, risk-based approach to enforcement.
- Trading Standards will encourage joint inspection and visits to those traders suspected of involvement in supplying counterfeit alcohol and tobacco and being engaged in other Customs and Revenue-related offences.

Police

- Memoranda of Understanding exist between members of the Government Intelligence Agency Network (including Derby Trading Standards, Derbyshire Trading Standards, Trading Standards East Midlands, Scambusters, HMRC and Derbyshire Police) to facilitate information exchange and, where appropriate, joint working.
- Trading Standards will continue to liaise with the Derbyshire Police Licensing Team, sharing relevant information and attending awareness raising events.

Trading Standards

- Derby Trading Standards regularly collaborates with other Trading Standards services in joint investigations and legal action. It actively participates in Trading Standards East Midlands Intellectual Property best practice group.

Intellectual Property Office

- Derby Trading Standards will support the Intellectual Property Office in completion of its annual report and share with it information concerning counterfeit goods.

Food Standards Agency, DEFRA and the National Trading Standards Board (NTSB)

- Derby Trading Standards will support these regulators in completion of food hazard alerts, food fraud reports and share information with them concerning counterfeit goods.

3. Enforcement

Strategic Threat Assessment

The Trading Standards service has the task of assessing the threat from counterfeit goods to the local economy. It draws on information provided from a wide range of sources including consumers, traders, law enforcement and industry.

The Service analysts monitor activity of counterfeiters and assess the potential impact on Derby. Each incident in the city is analysed to understand the modus operandi, identify the methods of manufacture, distribution mechanisms, preferred routes and any weakness in the current regulation and legislation.

This research results in evidence-based recommendations for proportionate changes to current tactical and strategic arrangements. This work compliments both the NTSB's and Trading Standards aim of adopting the NTSB Intelligence Operating Model in 2014.

- Trading Standards will develop a strategic assessment of the threat of counterfeit goods to Derby.
- The assessment will address the extent of counterfeit incidents and their impact on the local market.
- Identify any vulnerabilities or weaknesses in the current system and regulations, and make the necessary recommendations to take forward to Government.
- Analyse why Derby is targeted by counterfeiters and how this compares to other cities and regions.
- Conduct analysis of counterfeit goods incidents to identify the drivers influencing this type of criminality.
- Monitor and identify trends relating to the supply of counterfeit goods through websites, auction sites and on-line forums.
- Anticipate future trends and emerging threats to the city.
- Strategic Threat Assessment findings will influence the future shape of the anti-counterfeiting strategy and tactics employed.

Targeted Market Surveillance

The identification and monitoring of tobacco and alcohol most at risk from counterfeiting and already on the market ensures a focused, intelligence-led approach to the monitoring of the market.

Following co-operation with manufacturers, retailers, law enforcement, and regulators, a watch-list of alcohol and tobacco most likely to be counterfeited for local supply is to be compiled. The list will take into account the most recent intelligence available

Information from the list will be distributed to HMRC, Police, council teams, new premises holder licensees and current applicants. Vigilance is increased in relation to these products at points of supply/distribution.

Enforcement Activity Incident Handling

Every report of suspected counterfeit tobacco or alcohol is treated as a serious incident. Reports to Trading Standards are directed to the Fair Trading specialism and will trigger a response, where they are assessed and evaluated, with a clear emphasis placed upon protecting the public through a process of seizure, quarantine and analysis.

Once a suspicious product is confirmed as counterfeit, the extent of penetration in the supply chain is assessed, as is the risk to consumers. Any counterfeit product which is assessed as reaching consumers will be the subject of recall.

The council's Communications team will assist in developing an appropriate communication strategy to engage with the media to ensure a clear, unambiguous, balanced message is delivered to consumers and traders.

Investigation

In parallel with the primary objective of protecting the consumer, Trading Standards will, when appropriate, commence an investigation. The first steps will involve establishing the offences likely to have been committed.

This type of investigation will be prioritised within Trading Standards with a very clear focus on identifying those persons knowingly engaged in the manufacture, distribution and supply of counterfeit goods. Investigations into counterfeit goods are often characterised by their complexity, scale and financial profit. Where individuals are identified to Trading Standards, we will work together with the Police and HMRC whenever appropriate. However, Trading Standards will not hesitate to act and prosecute alone, where sufficient evidence allows it to do so.

Any businesses or individuals identified who are suspected of being involved in the distribution and supply of counterfeit goods and who hold a alcohol premises licence issued by a local authority, will be considered for an application to review that licence on the grounds that the licencing objectives are not being upheld.

During the course of an investigation concerning counterfeit goods, Police financial investigators will be consulted to advise on the task of establishing the scale of profits accumulated during the criminal activity and the identification, restraint and confiscation of the offender's assets.

Where possible, a joint investigation involving a Police financial investigation will be sought. The confiscation of assets is a strong deterrent against those counterfeiting and supplying fake goods and will be pursued in all appropriate cases.

Investigations will be progressed using all available investigative tools and powers. This may include the use of covert test purchasing, legally authorised surveillance, the seeking and execution of entry warrants, Police powers of arrest and detention, inspection and seizure of evidence and assets.

Wherever possible and appropriate, evidence will be forwarded to the council's Legal Section for consideration of prosecution using the most appropriate legislation. This includes the Consumer Protection from Unfair trading Regulations 2008, the Trademarks Act 1994, the Copyright Design and Patents Act 1988, the Fraud Act 2006 and the Proceeds of Crime Act 2002.

At the conclusion of any successful prosecution an application for full recovery of costs will be made and pursued. All enforcement activity will be conducted in accordance with statutory requirements and the council's enforcement policy.

Performance Measures

Trading Standards will seek to measure its performance in this area by:

- Reviewing this strategy each year to identify new threats
- Measuring the number of media releases and media opportunities in this field
- Assessing the number of joint working opportunities and actions where joint working has led to an outcome and
- Monitoring the numbers of intelligence reports, complaints, incidents, seizures, investigations and legal disposals

Conclusion

Protecting consumers – pursuing counterfeiters

The success of this strategy will firstly be measured by any reduction in the risk to consumers of suffering physical harm or economic loss, as a result of a counterfeit product and, secondly, an increased risk to those engaged in manufacturing, distributing and supplying counterfeits.

Combating the supply counterfeit goods will remain a priority for Derby City Council Trading Standards. Progress in undertaking the programme of activities described in this strategy will be subject to periodic review.

An edited version of the strategy will be made available to the public.