

REPORT TO INFRASTRUCTURE SERVICES COMMITTEE – 30 NOVEMBER 2017
TRADING STANDARDS SERVICE- ANNUAL REVIEW 2016-17

1 Recommendation

The Committee is recommended to:

1.1 Review the performance of the Trading Standards Service in 2016-17 and agree the continued preparation and reporting of an Annual Review of Trading Standards.

2 Background / Discussion

- 2.1 The purpose of this report is to highlight the work of the Trading Standards Service and to provide more information to Members about the activities of the service over the year 2016/17.
- 2.2 The key aim of Trading Standards is to protect consumers and promote safe and fair trading. This is achieved through inspections of trade premises to ensure they are trading in compliance with statutory requirements and by investigation of complaints. This protects not only the consumer but also the legitimate local business by providing a level playing field.
- 2.3 The inspection work aims to identify problems at an early stage and is an opportunity for businesses to obtain on the spot advice on often complex legislation. Inspections to lower risk businesses are now reducing in line with better regulation principles so it is important businesses know we can be contacted for guidance at any time. Complaints are received from the Citizens Advice Consumer Helpline for second stage civil advice and mediation, and where any criminal breaches of legislation are identified.
- 2.4 Formal enforcement action is rare and is given careful consideration to ensure it meets the terms of the Enforcement Policy, the Regulators' Code and the Scottish Regulators' Strategic Code of Practice to ensure it is proportionate to consumer detriment caused.
- 2.5 Currently the only performance indicators reported to Members concerns the handling of consumer complaints and business advice requests and the number of high risk visits completed. These are very limited in the information they provide and they fail to highlight other important areas of work such as projects, enforcement work and prosecutions.
- 2.6 A number of reports over the last few years have also expressed concern that the profile of Trading Standards within local authorities had reduced over recent years. This was raised in the Audit Scotland report 'Protecting Consumers' published in January 2013 and the Consumer Focus report 'Up to

Standard? - A Review of Trading Standards Services in Scotland' published in 2010.

- 2.7 The production of the Annual Review seeks to address these issues by providing better information to Members to provide a more rounded picture of the Trading Standards Service.
- 2.8 The Annual Review is attached and copies have been placed in the Members' Library and Ward Pages.
- 2.9 The Head of Finance and the Monitoring Officer within Corporate Services have been consulted during preparation of this report and had no comments to make.

3 Scheme of Governance

- 3.1 The Committee is able to take a decision on this item in terms of Section F 1.1 of the List of Committee Powers in Part 2A of the Scheme of Governance as it relates to policy and resource issues relating to trading standards, part of economic development and protective services.

4 Implications and Risk

- 4.1 An equality impact assessment is not required because there will be no differential impact, as a result of this report, on persons with protected characteristics.
- 4.2 There are no staffing and financial implications.
- 4.3 The following Risk have been identified as relevant to this matter on a Corporate Level: Working with other organisations; Social Risk, Changes in Government policy, legislation and regulation. The following Risk have been identified as relevant to this matter on a Strategic Level: Scottish Regulators Code of Practice.
- 4.4 A Town Centre Assessment is not required as the recommendations in the report will have no impacts on Town Centres.

Stephen Archer
Director of Infrastructure Services



From mountain to sea

Trading Standards Annual Review 2016 - 17

October 2017



October 2017

TRADING STANDARDS

**Working together for the people of Aberdeenshire
to create a fair and safe trading environment**

- **Protecting consumers from unfair, illegal and unsafe trading practices**
- **Empowering consumers by providing advice, education and support**
- **Protecting reputable and legitimate local businesses from illegal trading practices and unfair competition**
- **Supporting local businesses by providing inspection, advice and support services**

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Introduction

Welcome to the Trading Standards Annual Review for 2016 - 17.

Trading Standards Services have a statutory duty to enforce consumer protection and trading standards law designed to protect the health, safety and economic wellbeing of residents and provide a level playing field for legitimate businesses.

This covers fair trading including the pricing and description of goods and services, anti-counterfeiting & illicit trade; weights & measures; product safety; the sale and advertising of age restricted products such as cigarettes, fireworks and nicotine vaping products (e-cigarettes), animal feed hygiene and certification and licensing of petroleum & explosives.

We provide advice and assistance to consumers who have problems with goods and services purchased; inspect businesses to monitor and assist them into compliance; investigate complaints and intelligence received; test purchase and sample goods and submit these for testing if necessary; and in certain circumstances submit reports to the Procurator Fiscal, issue fixed penalty notices and pursue civil enforcement orders.

Aberdeenshire Trading Standards' activity and performance for 2016-17 is set out below. The Review includes statutory performance data, information on projects carried out throughout the year and highlights legislative and organisational changes introduced during the year.



Wilma Urquhart
Trading Standards Manager
Chief Inspector of Weights and Measures

Our Priorities for 2016-17:

- Doorstep Crime
- Second-hand Car Sales
- Internet Sales (e-crime)
- Mass Marketing Scams
- Age-related Sales

At a Glance

During 2016-17:

- ✓ 628 compliance checks were conducted
- ✓ 128 required informal enforcement action
- ✓ 172 traders requested business advice from us
- ✓ 918 consumers were given assistance to resolve their complaints
- ✓ 26 samples were submitted for analysis
- ✓ 219 intelligence reports were logged.
- ✓ 48 test purchases of age restricted products.
- ✓ 29 warning letters issued
- ✓ 1 Enterprise Act undertaking obtained

Weights & Measures

These figures form part of the annual return to the National Measurement and Regulatory Office (part of Regulatory Delivery) as required by the Weights & Measure Act 1985. Table 1 indicates the weighing and measuring equipment tested and Table 2 indicates the businesses visited to check compliance with weights & measures legislation.

TABLE 1- WEIGHING & MEASURING EQUIPMENT TESTED

Category of Equipment	Equipment Inspected	Equipment Verified	Equipment Incorrect
Liquid Fuel Dispensers	312	0	1
Bulk Fuel Tanker Meter Measuring Systems	9	1	0
Weighbridges & Scales > 5 tonne Capacity	51	1	7
Non-automatic Weighing Instruments <30kg	387	12	8
Non-automatic Weighing Instruments >30kg, < 5 tonne	68	1	1
Automatic Weighing Instruments	10	0	0
Intoxicating Liquor Measuring Instruments	10	0	0

TABLE 2- BUSINESSES INSPECTED

Category of Equipment Type of Business	Businesses Liable to Inspection	Businesses Visited	Businesses Broadly Compliant
Packaging Plants	124	56	53
Importers of Packaged Good	1	1	1
Businesses Selling Bulk Products by Weight or Volume	138	45	39
Retail Outlet	1360	106	98
Medical Institutions	24	0	0

Fair Trading

Scams

In partnership with Citizens Advice, we took part in Scams Awareness Month during July 2016. The campaign was designed to highlight doorstep, online, telephone and postal scams. We held a series of displays at local supermarkets where advice and guidance leaflets were supplied and encouraged customers to report any concerns. Supplies of the 'uninvited traders' stickers were also available and proved very popular.



We also developed warning postcards for use in an area where we receive complaints or intelligence that rogue traders may be operating. This has already resulted in us being able to provide advice and assistance to consumers who wouldn't otherwise have thought to contact us for help.



Rogue traders may be operating in your area.

- Rogue Doorstep Sellers often try and trick people into having work done that isn't necessary
- They will seek to hide their true identity and you may not be able to contact them if things go wrong
- The work is often poor quality and they may increase the price at a later stage
- The vulnerable and elderly are often targeted

Protect your Community and report any concerns.

A further source of help is our provision of telephone call blockers for anyone who may be vulnerable to telephone cold callers attempting to scam residents or sell them products they don't want or need, often at inflated prices. A national project was initiated where we were given call blockers to supply to those suffering from dementia. These provide great peace of mind for relatives and help prevent dementia sufferers being targeted.



Online Trade



We continue to monitor social media sites and the internet more generally for Aberdeenshire based sellers of illegal goods.

We have been working with administrators of buy and sell groups on social media to make them aware of their responsibilities for the goods sold on their sites. 12 warnings were issued to administrators during 2016-17.

- 2 website take-down requests were initiated.
- 61 counterfeit items were seized or surrendered with a value of £7085.

12 warning letters and 1 advisory letter were issued for sales of counterfeit cigarettes and clothing, unsafe electrical items and sales of loaded IPTV sticks.

Many more small businesses now import goods direct from outwith the European Union. This means they take on the full responsibility of a producer of the goods and are responsible for carrying out all safety checks on the goods.



Prepayments

We took part in a Scotland wide project on unfair prepayment and cancellation terms.

A total of 20 businesses were visited as part of the project. The types of businesses visited covered a wide spectrum of different goods and services including hotel and wedding venues, home furnishings, furniture, fitted kitchens and bathrooms, garages, electrical goods, fitness clubs and a bridal shop.

Each business had their terms and conditions checked and were provided with advice on the circumstances when a consumer would be entitled to the full or partial return of any deposit and the circumstances when a trader may be entitled to charge for cancellation of a contract.

Consumer Contracts Information, Cancellation and Additional Charges

These regulations specify the information and, in some circumstances, cancellation rights a consumer should receive when entering into a contract. Failure to provide these can result in the trader being unable to enforce the contract and for example may not be entitled to receive payment for work carried out.

To help ensure businesses are aware of the requirements, a guidance note was prepared and e-mailed out to 208 businesses across Aberdeenshire. Businesses were also invited to contact us or attend a drop-in session for further information. Targeted businesses were those likely to enter into a contract at the consumer's home and included plumbers, electricians, builders, joiners, painters/decorators, roofers, gardeners, funeral directors etc.



Product Safety

Construction Products

A project was carried out to inform and advise local businesses on the Construction Products Regulations. Since July 2013 all businesses manufacturing products for use in construction works are required to CE mark the products and to make a Declaration of Performance for the product.

This covers requirements for ;

- Mechanical resistance and stability
- Fire safety
- Hygiene, health & the environment
- Safety & accessibility in use
- Noise protection
- Energy economy & heat retention
- Sustainable use of natural resources



60 businesses were contacted and sent guidance on the requirements. Initially steelworks, builders and timber merchants have been contacted but the project will continue and progress to other sectors.

Licensing Activity

37 Premises were licensed to store explosives such as fireworks, shotgun cartridges, bird scarers and marine flares. There is also 1 business within Aberdeenshire licensed to sell fireworks all year round ie outwith specified periods around bonfire night, Diwali, Chinese New Year and Hogmanay.

There were 2 fireworks dispensations granted through the year. This is required to allow the use of fireworks between the hours of 11pm and 7am.

61 Premises now have a Petroleum Storage Certificate allowing them to store and dispense petroleum.

These businesses are inspected regularly to ensure safe storage conditions are in place and adequate risk assessments have been carried out.



Age Restricted Products

There are 270 registered tobacco retailers in Aberdeenshire and 37 retailers of fireworks. E-cigarette sellers will also be required to register by 1 October 2017.

A ban on the sales of e-cigarettes to under 18 year olds was introduced on 1 April 2017.



During 2016-17, 53 tobacco retailers received a visit providing advice on checks which must be in place to prevent

under-age sales.

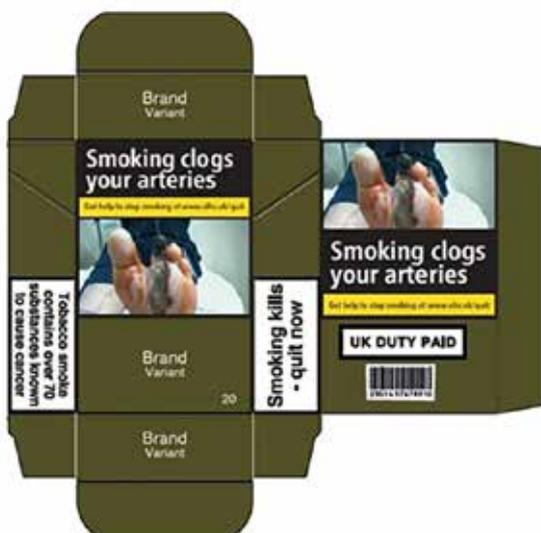
43 test purchases of cigarettes were attempted with 1 sale made.

5 test purchases of fireworks were attempted with 0 sales made.

New controls on the labelling and advertising of tobacco and e-cigarettes were introduced in May 2016 with a period of 1 year to allow retailers to sell on non-compliant stock.

There are now limits on the quantity and concentration of nicotine containing liquids for vaping, and the size of refillable tanks on e-cigarettes

All cigarettes must now be sold in standardised packaging as shown below.



Animal Feed Hygiene

There are currently 3547 premises registered or approved under the Feed (Hygiene and Enforcement) (Scotland) Regulations 2005. Feedstuff hygiene inspections takes place at both Primary and Non-Primary Production premises.

Primary production premises produce agricultural products that do not undergo any other operation following their harvest and also those raising and storing animals, prior to slaughter. Non-Primary premises are premises involved in feed production outside of the definition for Primary production, such as feed mills.

232 feed interventions were conducted and 22 feed samples were submitted for analysis.

1 Feed Improvement Notice was issued for a number of breaches of feed law.



Formal Enforcement Action

Formal enforcement action is generally only taken as a last resort when a trader has refused to remedy a contravention of the law or where there is evidence of fraud or reckless practice or in cases of significant economic detriment.

There were no matters requiring a report to the Procurator Fiscal during this year.

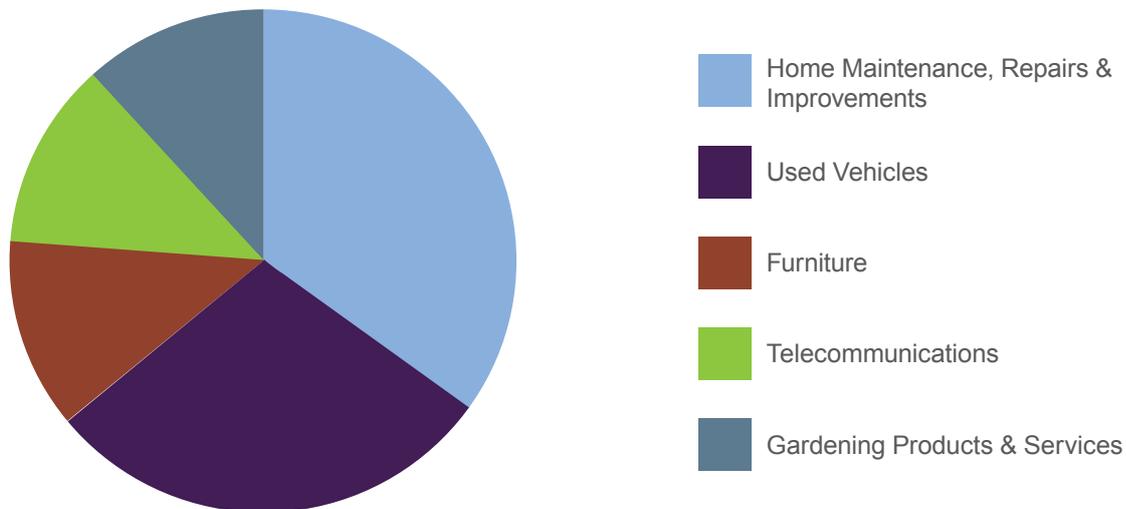
Investigations were carried out into a number of social media sites advertising counterfeit goods and illicit tobacco. These businesses were given advice and warned against breaching legislation in future.

An investigation was launched into a car dealer providing misleading descriptions of used vehicles. Compensation was obtained on behalf of the consumers and a warning was issued. The Home Authority were notified of the offences and will continue to monitor their business practices.

We received a large number of complaints against a landscape gardener. We initially obtained an undertaking by virtue of the Enterprise Act 2002 that the trader would cease causing economic harm to consumers by taking deposits for work and failing to carry it out. A criminal investigation was also initiated and we assisted the police in establishing fraud charges against the business.

Consumer Advice & Assistance

Most Complained about Goods and Services



Used vehicles are consistently in the top five most complained about goods and services and as a consequence are one of our five priority areas. Most complaints are in relation to defective vehicles however several were investigated for misleading descriptions.

“A complainant purchased a second-hand car and had asked the salesman at the point of purchase about the history of the car. He was informed that the car had one previous owner and that it had been a company car. The complainant received the V5 5 weeks after purchase. It stated that the previous owner had been Enterprise Rent a Car. After we intervened the trader agreed to settle the matter for £1000.”

“£380 redress was obtained for 2 consumers who had bought cars which had been misdescribed. They bought cars falsely described as sold with a warranty. After an investigation the trader agreed to amend his future advertising and to provide compensation to the complainants.”

A guidance booklet is being developed and will be distributed to all used car dealers during the forthcoming year. It will provide advice on the changes introduced by the Consumer Rights Act 2015 and clarify the trader’s obligations and the legal rights of their customers.

While we try and resolve any complaints brought to us as quickly as possible, it is sometimes important to be patient and persistent on behalf of the consumer. The following examples illustrate the point well.

“A consumer who had a complaint about her electricity bill approached us for advice in June 2016. There was a significant amount of paperwork to review and protracted discussions with the supply Company however 6 months later the Company agreed to write-off the bill of over £4,500.”

“A Westhill resident booked a holiday to Tenerife in June 2014. The return flight was delayed seven hours and she made a claim to the airline. This was rejected by the airline but they did not provide a suitable reason for rejection. The consumer approached us for help in August 2016. We contacted the airline but they failed to respond to our request. We then wrote to the Spanish National Enforcement Body (the Spanish Civil Aviation Authority) with the result that the airline agreed to pay compensation of 400 Euro per person, £2000 in total. This was eventually refunded in February 2017.”

Publicity and Campaigns

As well as Scams Awareness Month highlighted earlier, we also took part in a couple of publicity campaigns. One warned of the dangers of children ingesting button batteries and posters were distributed throughout Aberdeenshire. We also worked alongside the police raising awareness of doorstep crime as part of Operation Monarda.

We issued press releases throughout the year covering a number of topics. These included sales of potentially dangerous power tools in the region, copycat websites, the increase in sales of cigarettes to under 18 year olds, and warning of a scam where vulnerable residents were called and advised they were the subject of criminal investigation by HMRC.

Small in size. The risk of a BIG problem



Inside some electronic devices are button cell batteries, that if swallowed by small children can get stuck in the throat and cause severe burns within two hours, or even death.

These batteries can be found in toys, musical books, key fobs, remote controls, calculators, and other small electronic devices.

Ensure your child does not have access to these devices if the battery compartment is not secure, make certain that spare batteries are locked away, and used batteries are disposed of correctly.

If your child does swallow a button cell battery, seek medical advice immediately.



New Initiatives

We are always aware of the need to improve our effectiveness and efficiency and welcome new ideas to improve our Service.

- We are now part of a North of Scotland Notified Body group enabling us to share expertise and better maintain staff competency in carrying out metrology (weights & measures) verifications.
- We are in discussions with other North of Scotland local authorities on setting up a Formal Joint Working Partnership. The aim of this collaboration is to be more effective in tackling cross border issues by again sharing information, expertise and resources. This should also improve resilience and ultimately produce better outcomes for consumers and businesses.
- There is an ongoing review of official controls on animal feed with Food Standards Scotland proposing these are delivered in future by local authorities on a regional basis. Aberdeenshire Council is the nominated regional authority covering Aberdeenshire, Aberdeen City and Shetland Council.



Staff

We continue to have difficulty recruiting qualified staff and so had to cope with some unfilled vacancies within the Service during the year. Sincere thanks must go to all staff for absorbing the additional workload and maintaining a good standard of service.



Our trainees were both successful in their exams in November 2016 and we were particularly proud of Karen MacDonald who was awarded the Fair Trading Criminal prize by the Chartered Trading Standards Institute for achieving the highest mark in that exam.

Performance & Customer Satisfaction

Consumer Survey (August 2016)

95% were satisfied with the overall level of service

100% felt they were kept well informed on progress and outcome

100% rating for competency & professionalism of staff

95% found it easy to contact us initially

Business Survey (January 2017)

100% were satisfied with the overall level of service

100% felt we made it clear what the business had to do to meet legal requirements

88% felt we treated them consistently

100% felt our staff were courteous & polite and treated them fairly

Performance Indicators 2016-17

Consumer Complaints	Business Advice Requests	High Risk Visits
918 consumer complaints referred for action	199 advice requests	70 visits programmed
638 completed within 14 days	149 completed within 14 days	66 visits concluded
69.4% (76.8% in 2015-16)	87% (88% in 2015-16)	94% (94% in 2015-16)



Appendix 1

Our operational priorities for 2016-17 were;

- Doorstep Crime
- Second Hand Car Sales
- Internet Sales (E- Crime)
- Mass Marketing Scams
- Age related Sales

During 2016-17 we committed to the following activities:-

- (a) Prioritise doorstep crime complaints with a view to reducing harm caused to consumers. This will include awareness raising and increased publicity, closer cooperation with partner agencies and neighbouring authorities, identifying and adopting best practice.
- (b) Carry out a project to inform local traders operating in the home improvement sector of their rights and obligations under the Consumer Rights Act 2015, the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 and the Alternative Disputes Regulations 2015.
- (c) Provide information on the Consumer Rights Act to Aberdeenshire based car dealers and consumers with a view to improving knowledge of their legal rights and obligations and reducing the level of complaints.
- (d) Continue work to protect vulnerable adults from financial harm, including providing advice and assistance to those on the 'Scams List' and offering and publicising our free loan service of call blockers to vulnerable adults.
- (e) Conduct advice visits and test purchase exercises with a view to monitoring and enforcing legislation controlling the sale of age restricted products.
- (f) Visit all high risk premises during the year and visit businesses rated as upper medium as resources allow. High risk premises includes animal feed mills and large food packers. Major non compliances will be fully investigated and monitored until compliance is achieved.
- (g) Carry out a project to improve compliance in the construction products industry.
- (h) Carry out projects in the identified priority areas as appropriate and take part in selected projects identified by national and regional groups.
- (i) Continue to identify and develop areas for closer joint working with other Local Authorities to identify efficiencies and make best use of available resources in providing a Trading Standards Service.

Contacts

Trading Standards (South)
Gordon House
Blackhall Road
Inverurie
AB51 3WA
Tel 01467 537222

Trading Standards (North)
Maconochie Road
Fraserburgh
AB43 8TH
Tel 01346 415888

E- Mail: trading.standards@aberdeenshire.gov.uk

Website: www.aberdeenshire.gov.uk/business/trading-standards

Twitter: <https://www.twitter.com/AberdeenshireTS>

