

TYNE AND WEAR TRADING STANDARDS JOINT COMMITTEE AGENDA

Thursday, 23 June 2022 at 10.00 am in the Whickham Room - Civic Centre

From the Chief Executive, Sheena Ramsey

Item Business

1 Appointment of Chair

The Committee is requested to appoint a Chair for the 2022/23 Municipal Year.

2 Appointment of Vice-Chair

The Committee is requested to appoint a Vice-Chair for the 2022/23 Municipal Year.

3 Constitution

The Committee is asked to note the Constitution of the Committee for the 2022/23 Municipal Year.

AUTHORITY	MEMBER	SUBSTITUTE
Gateshead Council	Councillor K Dodds	Councillor D Bradford
	Councillor C Buckley	Councillor S Hawkins
	Councillor T Graham	Councillor J McElroy
	Councillor I Patterson	
North Tyneside Council	Councillor S Graham	Councillor P Oliver
	Councillor J Hunter	Councillor L Bell
	Councillor T Mulvenna	Councillor S Phillips
	Councillor J O'Shea	Councillor P Richardson
South Tyneside Council	Councillor A Donaldson	
	Councillor S Dean	
	Councillor J Keegan	
	Councillor A Lamonte	
	Councillor R Porthouse	
Sunderland City Council	Councillor C Rowntree	Councillor P Gibson
	Councillor P Walker	Councillor M Mordey
	Councillor J Fletcher	Councillor D Snowdon
	Councillor J Heron	Councillor M Walker
Newcastle City Council	Councillor I Ali	Councillor K Robinson
	Councillor M Lawson	

	Councillor S Lambert	
	Councillor P Lovatt	

4 Apologies for Absence

5 Minutes (Pages 3 - 6)

The Joint Committee is asked to approve as a correct record the minutes of the previous meeting.

6 Report and Statistical Return for the Quarter Ending June 2022 (Pages 7 - 10)

Report of the Strategic Director, Communities and Environment, Gateshead Council

6a Final Outturn for Financial Year 2021/22 (Pages 11 - 16)

Report of the Service Director, Planning Policy, Climate Change and Strategic Transport

7 Avian Flu June 2022 (Pages 17 - 20)

Report of the Service Director, Economy Innovation and Growth

8 Brexit Freedoms Bill (Pages 21 - 22)

Report of the Service Director, Economy, Innovation and Growth

9 E Cigarettes (Pages 23 - 26)

Report of the Service Director, Economy Innovation and Growth

10 Food Promotion and Placement Regulations (Pages 27 - 30)

Report of the Service Director, Economy Innovation and Growth

11 Offensive Weapons Act 2019 (Pages 31 - 32)

Report of the Service Director, Economy Innovation and Growth

GATESHEAD METROPOLITAN BOROUGH COUNCIL

TYNE AND WEAR TRADING STANDARDS JOINT COMMITTEE MEETING

Thursday, 7 October 2021

PRESENT: Councillor K Dodds (Chair)

Councillors: J Fletcher, T Graham, I Patterson, J Heron,
P Walker, J O'Shea, J Hunter, T Mulvenna, L Hobson,
M Lowson and P Lovatt

TW56 APOLOGIES FOR ABSENCE

Apologies for absence were received from:

Councillor N Dick – South Tyneside Council
Councillor S Graham – North Tyneside Council
Councillor C Rowntree – Sunderland City Council
Councillor L Wright – Newcastle City Council

TW57 MINUTES

The minutes of the meeting held on 8 July 2021 were agreed as a correct record.

It was noted that orders have been placed to have the ventilation equipment which was stolen from the metrology laboratory replaced.

TW58 UPDATE ON THE GOVERNMENT CONSULTATION: REFORMING COMPETITION AND CONSUMER POLICY: DRIVING GROWTH AND DELIVERING COMPETITIVE MARKETS THAT WORK FOR CONSUMERS

The Government are looking to reform and strengthen how they intervene in markets by extending power to the Competition and Markets Authority (CMA). A very lengthy consultation document was circulated to Trading Standards Authorities including the Regional Trading Standards Authority. A regional response was submitted to the consultation.

The UK generally has an internationally respected consumer and competition authorities. The Competition and Markets Authority in particular have delivered billions of pounds of benefits to consumers through generating lower prices, better products and services and a firm commitment to upholding consumer rights.

There is increasing evidence that competition and consumer policies are failing to keep pace with the challenges of the 21st century. The leading firms in some markets have increased their market power in recent years. There is evidence both internationally from the International Monetary Fund and domestically from the CMA which shows that overall levels of competition have declined in the decades since

our legislative framework was last overhauled in 1998 and further since the financial crisis in 2008,

Now the UK has full autonomy to decide how we promote competition in our markets for the benefit of our citizens. This provides the competition authorities with a newfound freedom to decide what markets or conduct to investigate and what the best outcomes are for UK markets specifically.

Government recognises that the new autonomy brings opportunities but its also brings additional challenges, especially for the enforcement of competition law in the UK. The CMA will now be conducting more investigations. These will not only be more strategically significant to the UKs economy, but they are also likely to be more complex than many of the investigations previously undertaken by the CMA. So the CMA must have the right resources, powers and procedures to deal with these cases effectively and efficiently to deliver the best outcomes for the UK.

The Government views competition as at the core of innovative well-functioning markets. Promoting healthy competition in markets creates the right incentives for traders to innovate to offer the best deal for consumers to win the most custom, for example by reducing barriers to entry for new firms with new ideas.

The UK's internationally well-regarded competition regime seeks to keep markets competitive by:

- Preventing businesses from restricting competition
- Screening mergers to prevent anti-competitive consolidation and maintain rivalry
- Intervening in markets to unblock competition
- Advising government on how its policies will affect competition

Despite the actions that the UK has taken to promote competition, there is evidence from the CMA that competition in the economy may have weakened over the last 20 years. It is therefore essential that the competition regime does more to encourage and maintain competitive markets.

For consumer rights to have an impact on and improve the function of markets, traders must comply with the law and consumers must have confidence that their rights will be respected. To address this, traders must have sufficient understanding of the law that they do not accidentally breach the law in a way that harms consumers, and consumers must have the confidence to engage themselves, and state enforcers must have the right powers to step in where consumers and traders cannot resolve disputes.

The Government is proposing a package of reforms to the enforcement of consumer law to address these issues. This would allow the CMA to decide for itself where consumer law has been breached, which is an approach mirroring their abilities in competition law enforcement.

- Government is seeking view on the scope, decision-making process, and appeals process of this system, including appropriate safeguards to traders.

- Testing the case for extending these powers and abilities to economic regulators
- Fines of up to 10% of global turnover for traders that breach consumer protection law
- Sanctions for traders that seek to frustrate, delay or otherwise not comply with the enforcement process including flouting information gathering powers and breaching undertakings. Supporting consumers and traders to resolve more disputes independently
- Providing more support to consumers in individual disputes with traders by improving consumers' access to arbitration and mediations services, thus avoiding the need to go to court. This includes a proposal to make arbitration/mediation compulsory in the used car and home improvement sectors where consumer detriment is relatively high
- Improving the quality and oversight of alternative dispute resolution services
- Improving consumer awareness and signposting
- Seeking views on making it easier for consumers to band together to seek redress collectively from traders
- How national and local enforcement can work together to tackle national scams. Giving businesses the right support to comply with consumer protection law
- Seeking views on whether the current business education offer meets businesses' needs and how it can be improved.

RESOLVED - That the information be noted.

TW59 GREEN CLAIMS - NEW TRADING STANDARDS RESPONSIBILITY

The Committee received a report to update them on a new 'Green Claims Code' published by the Commission and Markets Authority (CMA).

The aim of the Code is to help businesses understand how to communicate their green credentials whilst reducing the risk of misleading shoppers. It focuses on six principles which are based on existing consumer law and follows extensive consultation with the businesses of all sizes and consumer groups.

The CMA plan to carry out a full review of misleading green claims, both on and offline at the start of 2022.

Green claims (also known as environmental claims or eco-friendly claims) are claims that suggest that a product, service, brand or business provides a benefit or is less harmful to the environment.

Typically, business use these claims when promoting or selling their products or services and they can be advertised in a range of ways. Green claims are genuine when they properly describe the impact of a product, brand, business or service, with evidence to back it up. Claims can be misleading if any information is untrue or hidden, if information is misrepresented or if it is taken out of context.

If a business does not comply with consumer protection law, the CMA and other

bodies – such as Trading Standards Services or sector regulators – may bring court proceedings. The Advertising Standards Authority (ASA) can also take action for misleading green claims which appear in advertising.

If a claim is found to be in breach of consumer protection law businesses can be forced to make changes to their claim or make a payment of redress to any consumers that may have been harmed by the breach. It is therefore recommended that they seek independent legal advice.

RESOLVED - That the information be noted.

TW60

**REPORT AND STATISTICAL RETURN FOR THE QUARTER ENDING
SEPTEMBER 2021**

The Committee received an update on the work of the Joint Metrology Laboratory for the period up to September 2021.

The laboratory has continued to provide a service throughout the pandemic and has not lost any time or productivity.

The laboratory has been giving advice on practical issues facing local companies with regards to the UKCA marking.

Only two on-site EC verifications have been conducted since the last report to the Committee.

Weights continue to be submitted for calibration and issue of UKAS Calibration Certificates. In the period from April 2021 to September 2021 there were 2533 submissions and 453 certificates issued.

The theft of the air-conditioning at the laboratory has had a detrimental effect on cigarette sampling.

The Committee were informed that Andrew Hayward was retiring from his role as Manager at the Metrology Laboratory and that he was unable to attend the meeting. The Committee asked that their appreciation be placed on record of Andy's dedication and commitment to the work and success of the Laboratory.

RESOLVED – That the information be noted.

Chair.....

23 June 2022

Report for period to June 2022

**Anneliese Hutchinson, Service Director, Economy, Innovation & Growth,
Gateshead Council**

Purpose of the report

To inform the Committee of the work of the Joint Metrology Laboratory for the period and operational duties to present.

Metrology Laboratory

Operational

1. The laboratory has undergone some staff changes with both the Laboratory Manager and Admin Assistant serving notice periods before leaving in December 2021. Allan Winthrop, previously of Newcastle Trading Standards, has been recruited as Senior Trading Standards Officer along with two Technicians meaning the laboratory is now back to a full complement of 6 staff. However, Allan is working on a part time basis that has reduced from 3 days per week down to two days starting from 1st June 2022.
2. Currently and on a temporary basis the Laboratory Manager and Technical Manager role is split between David Malone and Stephen Rudd. Both are long standing members of the team at the laboratory, and both have relevant experience to bring to their new roles. Discussions are ongoing with a longer-term plan on structure of staff for the laboratory and we shall inform committee as and when we have anything approved.
3. The submissions to the laboratory have been constant and consistent with previous periods and years. Turnaround times in returning work to clients with being a staff member down were increased by an additional 3 days. We're pleased to say that turnaround times are now returning to pre-pandemic levels, assisting our customers as they return to normal working patterns.

Aid and Advice to Industry

4. Local weighing machine repairers, chemical, food manufacturers, pharmaceutical and aeronautical companies continue to submit their test weights, scales and measures in for calibration. During the pandemic, many customers expressed their gratitude that we were still providing a service as their businesses would suffer if we did not.
5. The laboratory does offer the facility to companies to hire some of our test weights and there have been several hires of a few tonnes of weights over the last few months.
6. The Public Weighbridge is still being utilised by our clients and providing an essential service to road haulage operators, especially those sending ISO

containers through the ports in line with the Safety of Live at Sea Regulations (SOLAS). The weighbridge has continued to have its six-monthly checks to ensure accuracy.

UKCA Verifications

7. There have been no UKCA verifications submitted in this period only re-verification of existing equipment that has already been placed on the market.

UKAS Calibrations

8. The submissions have been consistent, and the numbers are presented in Annex 1 where there have been more items submitted in 2021 than the previous year.
9. The laboratory underwent its annual audit by UKAS in February 2022. This was the first face-to-face audit for over 2 years due to Covid restrictions. A successful audit with only minor points raised for both mass calibrations and toy testing which have all now been signed off, so the accreditation remains in place for another year. It is expected that they will return for auditing in January/February 2023.

Product Safety

10. As was reported previously the laboratory has been appointed by Office of Product Safety and Standards as the product safety laboratory and sample hub for the North-East, Yorkshire and Humberside regions and as such have been organising the testing of products on behalf of the Local Authorities that we represent.
11. The laboratory has played a pivotal role in the successful prosecution of a trader who was hiring dangerous sunbeds to the public. The same trader was prosecuted by Sunderland Council many years ago before moving to Hartlepool and North Yorkshire. He continued to trade, with sunbeds from Hartlepool tested at the laboratory as part of the current prosecution. The trader will be sentenced in September.

National Agenda

12. The laboratory hosted a meeting between the Lead Officers of Metrology in the Chartered Trading Standards Institute and the new Chief Executive of the Institute to establish policy on metrology provision in the UK. The visit included an open discussion with all laboratory staff and a tour of our facilities.

Recommendation

13. The Committee is asked to note the contents of this report.

Contact: David Malone, Gateshead Council, 0191 4784550 or davidmalone@gateshead.gov.uk

Annual Total 2021

Submissions		Items
373	UKAS M1	3060
37	UKAS F2	222
528	UKAS F1	1959
139	UKAS E2	722
Total UKAS Submissions		5963
36	Sec 74(4)	50
8	NAWI	8
1	Volume	1
12	Traders	67
8	Verification	8
Total Submissions		6097
UKAS Certificates		1086
Non UKAS Certificates		56
Submissions		Items
310	UKAS M1	2533
23	UKAS F2	167
352	UKAS F1	1328
112	UKAS E2	485
Total UKAS Submissions		4513
50	Sec 74(4)	78
14	NAWI	49
37	Volume	65
14	Traders	14
0	Verification	0
Total Submissions		4719
UKAS Certificates		729
Non UKAS Certificates		64

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**Report to the Tyne and Wear Trading
Standards Joint Committee**

23rd June 2022

Final Outturn for Financial Year 2021/22

**Anneliese Hutchinson, Service Director, Planning Policy, Climate Change &
Strategic Transport, Gateshead Council**

Purpose of the report

1. To advise the Joint Committee of the final Outturn for 2021/22, subject to the audit of Gateshead Council's accounts.
2. Details of the final position are shown in Appendix 1

Recommendation

3. The Committee is asked to note the information.

Contact: Jill Urron, Email – JillUrron@Gateshead.Gov.Uk

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Appendix 1

	Budget 21/22 £	Outturn 21/22 £	Variance 21/22 £	Notes
Income				
Fees & Charges	147,276	115,164	32,112	Actuals: 19/20 £145k, 20/21 £115k
S.11 Stamping Fees	7,911	1,217	6,694	
Levy on Constituent Authorities	224,888	224,888	-0	
Total Income	380,075	341,270	38,805	
Expenditure				
<i>Employees</i>				
Direct Pay	231,276	194,312	-36,964	Technical Assistant started Feb 2022 (saving £22k), Clerical Assitant left Dec 2021 (saving £8k)
Indirect Pay	358	427	69	
	231,634	194,739	-36,895	
<i>Premises</i>				
Repairs & Maintenance	21,900	12,583	-9,317	Includes contract cleaning £7k, work to AC equipment and water hygiene £3k
Utilities	14,000	14,570	570	
Rent	4,000	4,160	160	
Rates	9,000	8,608	-392	
	48,900	39,921	-8,979	
<i>Transport</i>				
Car Allowances	500	0	-500	
Vehicle Running Costs	1,000	1,224	224	
	1,500	1,224	-277	
<i>Supplies & Services</i>				
				Includes service and maintenance contracts £7k
Furniture & Equipment	21,000	10,314	-10,686	
UKAS Fees	9,000	6,905	-2,096	
Telephones		714	714	
Printing & Stationery	2,855	737	-2,118	
Insurance	9,135	9,579	444	
Postage	1,000	530	-470	
				Includes memberships to BSI and UK Weighing Fed £2k
Miscellaneous	15,228	6,953	-8,275	
	58,218	35,730	-22,488	
<i>Central Admin</i>				
Met Lab Central Admin	38,798	34,055	-4,743	
	38,798	34,055	-4,743	
Total Expenditure	379,050	305,669	-73,381	
Net Expenditure	-1,025	-35,601	-34,576	

	Outturn 21/22
	£
Reserve balance at 31st March 2021	-130,550
<i>Transfer to Reserve</i>	<i>-35,601</i>
Reserve balance at 31st March 2022	-166,150

Levy on Constituent Authorities

Gateshead Contributions	-40,754
Sunderland	-56,080
Newcastle	-57,030
LACB South Tyneside	-30,151
LACB North Tyneside	-40,873
	<u>-224,888</u>

Appendix 2

	Outturn 21/22	Budget 21/22	Budget 22/23
INCOME			
Fees & Charges	-115,164	-147,276	-140,545
S.11 Stamping Fees	-1,217	-7,911	-7,911
Levy on Constituent Authorities	-224,888	-224,888	-231,635
	-341,270	-380,075	-380,091
EMPLOYEES			
Direct Pay	194,312	231,276	230,945
Indirect Pay	427	358	358
	194,739	231,634	231,303
PREMISES			
Repairs & Maintenance	12,583	21,900	22,388
Utilities	14,570	14,000	16,080
Rent	4,160	4,000	4,000
Rates	8,608	9,000	9,180
	39,921	48,900	51,648
TRANSPORT			
Car Allowances	0	500	500
Vehicle Running Costs	1,224	1,000	1,000
	1,224	1,500	1,500
SUPPLIES & SERVICES			
Furniture & Equipment	10,314	21,000	21,000
UKAS Fees	6,905	9,000	9,000
Printing & Stationery	737	2,855	2,855
Insurance	9,579	9,135	9,135
Postage	1,244	1,000	1,000
Miscellaneous	6,953	15,228	13,852
	35,730	58,218	56,842
CENTRAL ADMIN			
Met Lab Central Admin	34,055	38,798	38,798
	34,055	38,798	38,798
Net Budget / Outturn	-35,601	-1,025	0
<u>Contributions</u>			
Gateshead	-40,754	-40,754	-41,977
Sunderland	-56,080	-56,080	-57,762
Newcastle	-57,030	-57,030	-58,741
South Tyneside	-30,151	-30,151	-31,056
North Tyneside	-40,873	-40,873	-42,099
	-224,888	-224,888	-231,635
Reserve Balance b/forward 1st April 2021	-130,550		
Reserve Balance c/forward 31st March 2022	-166,150		

Notes

3.0% Increase For Inflation

- 1 x Grade L Manager
- 2 x Grade H Technical Officers
- 1 x Grade E/F Junior Technical Officer
- 1 x Grade D Technical Assistant
- 1 x Grade D Senior Support Assistant

Includes Contract Cleaning & Grounds Maint

Re-equipping

Directorate £18.8k, Finance £12.3k, IT
£3.5k, Other £6.2k

Increase

- 3%
- 3%
- 3%
- 3%
- 3%

23 June 2022

**An update on the seasonal threat and the
response from the five local authorities within
the region to the threat from avian flu.**

**Anneliese Hutchinson, Service Director, Economy, Innovation & Growth,
Gateshead Council**

Purpose of the report

To provide Committee with an update on the seasonal threat and the response from the five local authorities within the region to the threat from avian flu.

Avian Flu

1. Avian influenza (bird flu) mainly affects birds. It can also affect humans and other mammals. Avian influenza (bird flu) is a notifiable animal disease. This means that if anyone suspects any type of avian influenza in poultry or captive birds, they must report it immediately by calling the Defra Rural Services Helpline on 03000 200 301.
2. If anyone finds dead wild waterfowl (swans, geese, or ducks) or other dead wild birds, such as gulls or birds of prey, they should report them to the Defra helpline (03459 33 55 77). The important advice is **not to touch or pick up any dead or visibly sick birds that may be found.**
3. All bird keepers (whether they have pet birds, commercial flocks or just a few birds in a backyard flock) must keep a close watch on them for signs of disease and maintain good biosecurity at all times. If anyone has any concerns about the health of their birds, they should seek prompt advice from their vet.
4. Individuals keeping birds should register their poultry, even if only kept as pets, so that they can be contacted during an outbreak. This is a legal requirement if anyone has 50 or more birds. Poultry includes chickens, ducks, turkeys, geese, pigeon (bred for meat), partridge, quail, guinea fowl and pheasants.

Avian Influenza Prevention Zone

5. An Avian Influenza Prevention Zone (AIPZ) has been in force across Great Britain since 3 November 2021, and in Northern Ireland since 17 November 2021. Mandatory housing measures for poultry and captive birds were introduced on the 29 November 2021 and ended at 00:01 on Monday 2 May 2022. However, the Avian Influenza Prevention Zone (AIPZ) remains in force across the UK until further notice, with only the housing measures component being lifted.
6. This means while birds are allowed to range outside it remains a legal requirement for all bird keepers across the UK (whether they have pet birds,

commercial flocks or just a few birds in a backyard flock) to follow strict biosecurity measures to limit the spread of and eradicate the disease.

7. The lifting of the housing measures does not apply to areas in a Protection zone, where poultry and other captive birds must continue to be housed.

AIPZ in England

8. The AIPZ in England means that bird keepers must:
 - cleanse and disinfect clothing, footwear, equipment, and vehicles before and after contact with poultry and captive birds – if practical, use disposable protective clothing
 - reduce the movement of people, vehicles, or equipment to and from areas where poultry and captive birds are kept, to minimise contamination from manure, slurry, and other products, and use effective vermin control
 - thoroughly cleanse and disinfect housing on a continuous basis
 - keep fresh disinfectant at the right concentration at all farm and poultry housing entry and exit points
 - minimise direct and indirect contact between poultry and captive birds and wild birds, including making sure all feed and water is not accessible to wild birds

Enforcement

9. Avian influenza controls, including the AIPZ are enforced by the Local Authority Animal Health Function (LAAHF), which is situated with the Trading Standards or Environmental Health Service of a local authority.

Risk level

10. The risk of incursion of highly pathogenic (HPAI) avian influenza H5 in wild birds in Great Britain has reduced from very high to high. With the risk of poultry exposure to HPAI H5 in Great Britain has reduced from medium (with low uncertainty) to low (with high uncertainty) where good biosecurity is applied and has reduced from high (with low uncertainty) to medium (with high uncertainty) where biosecurity is suboptimal.
11. The UK Health Security Agency (UKHSA) has said that avian influenza is primarily a disease of birds and the risk to the general public's health is very low. The Food Standards Agency has said that on the basis of the current scientific evidence, avian influenza poses a very low food safety risk for UK consumers. Properly cooked poultry and poultry products, including eggs, are safe to eat.

Cases in England

12. As of the 19 May 2022, there were 98 cases of avian influenza H5N1 in England. There were also 2 cases of avian influenza in Wales where a small area of the disease control zones extended into England. In addition, there were 2 cases of avian influenza in Scotland where a small area of the surveillance zone surrounding each case extended into England.

Wild bird surveillance in Great Britain

13. The Animal and Plant Health Agency (APHA) carries out year-round avian influenza surveillance of dead wild birds submitted via public reports and warden patrols. There have been multiple findings of HPAI H5N1 in wild birds from sites across GB.

Advice for the public

Support for the farming community

14. Officers continue to work in partnership with a range of organisations and interested parties to support to help the bird keeping community through the challenging times associated with the latest outbreak.

The Response from Local Authorities

15. During the outbreaks, officers have continued to work closely with a range of partners including poultry keepers, small-holdings, urban farms, and allotment societies to ensure that the biosecurity measures around avian flu are being closely adhered to. Officers have also had to deal with the full ramifications of three confirmed outbreaks.

City of Sunderland

16. Avian influenza H5N1 was confirmed in birds at a premises near Washington, Sunderland, Tyne & Wear on the 11 December 2021. Following a risk assessment, a 3km Captive Bird (Monitoring) Controlled Zone was put in place surrounding the premises.

17. Following successful completion of disease control activities and surveillance within the disease control zone surrounding this premises, the 3km Captive Bird (Monitoring) Controlled Zone has been revoked.

City of Newcastle upon Tyne

18. Highly pathogenic avian influenza (HPAI) H5N1 was confirmed in birds at premises near Byker, Newcastle Upon Tyne, Tyne & Wear on the 25 January 2022. A 3km Protection Zone and 10km Surveillance Zone was put in place around the premises. All poultry on the suspect premises have been humanely culled.

19. Following successful completion of disease control activities and surveillance within the disease control zones surrounding this premises, the 3km Protection Zone has ended and the 10km Surveillance Zone has been revoked.

Gateshead

20. Highly pathogenic avian influenza (HPAI) H5N1 was confirmed in a small poultry flock at a premises near Blaydon, Gateshead, Tyne, and Wear on the 23 February 2022. A 3km Protection Zone and 10km Surveillance Zone was put in place around the premises. Birds on the infected premises have been humanely culled.

21. Following successful completion of disease control activities and surveillance within the disease control zones surrounding this premises, the 3km Protection Zone has ended and the 10km Surveillance Zone has been revoked.

Recommendation

21. The Committee is asked to note the information. Further information can be sought at: <https://www.gov.uk/guidance/avian-influenza-bird-flu>

Contact: Tracey Johnson, Gateshead Council, 0191 4333934 or email traceyjohnson@gateshead.gov.uk

Report to the Tyne and Wear Trading Standards Joint Committee

23 June 2022

An update on the proposed Brexit Freedoms Bill.

Anneliese Hutchinson, Service Director, Economy, Innovation & Growth, Gateshead Council

Purpose of the report

To provide Committee with an update on the issue related to the proposed Brexit Freedoms Bill (the Bill). The relevant announcement was made in the Queens Speech on the 5 May 2022.

Brexit Freedoms Bill

1. The Government is planning to introduce a Brexit Freedoms Bill to end the special domestic legal status of EU law and make it easier to amend or remove retained EU law. The Prime Minister announced the bill in January 2022, on the second anniversary of the UK's departure from the EU. The Government also said a cross-government drive to reform, repeal or replace "outdated" retained EU law would cut £1bn of red tape for UK businesses.
2. 'Retained EU law' is a concept created by the European Union (Withdrawal) Act 2018 (EUWA 2018). The act (amended in 2020 to take account of the Brexit transition period) took a 'snapshot' of EU law as it applied to the UK at the end of the transition period. It provided for this body of retained EU law to continue to apply in domestic law. EUWA 2018 also sets out how retained EU law can be modified (whether primary or secondary legislation is required depends on the type of retained EU law) and how the courts should interpret it.
3. Retained EU law has already been amended in multiple ways. The Government has used primary legislation to implement major post-Brexit policy changes. For example, the Immigration and Social Security Coordination (EU Withdrawal) Act 2020 ended EU free movement rights in the UK and repealed the main provisions of retained EU law relating to free movement. Section 8 of EUWA 2018 gives ministers the power to make regulations to correct 'deficiencies' in retained EU law.
4. The Government has made hundreds of regulations using this power, for example to remove references to "other member states" from domestic law. This power expires at the end of 2022. Depending on the status they are given under EUWA 2018, some types of retained EU law can also be modified through other delegated powers, not just the section 8 power.
5. Although the ability to amend retained EU law exists, the Government's view is that further, more systematic, changes are needed. It set out details in a policy paper entitled "The Benefits of Brexit", published on the same day the Prime

Minister announced plans for the bill. The Government said its intention was to “amend, replace or repeal all the retained EU law that is not right for the UK”. It identified two key strands: reviewing the substance of retained EU law to meet the UK’s new regulatory priorities and reviewing the status of retained EU law to allow changes to be made more easily.

6. The policy paper said the new legislation would “clarify the status and operation of retained EU law”, “simplify the complex status provisions” in EUWA 2018 and ensure retained EU law could be amended “in a proportionate and sensible way”. It said the Cabinet Office was currently reviewing questions including:
 - Revising the status of certain types of retained EU law for the purposes of amendment, to “normalise” their status in domestic law and make them easier to repeal or replace.
 - Creating a “targeted” power to enable the amendment of retained EU law for certain purposes without requiring primary legislation. The Government argued it was “not a good use of finite parliamentary time” to require primary legislation to amend retained EU laws that currently have a status equivalent to primary legislation when it comes to making amendments to them.
 - Removing the continued effect of the supremacy of EU law over domestic law that was made before the end of the transition period.

Potential Effects on Consumer Protection Legislation

7. The proposed Bill will lead to a great deal of scrutiny on all EU derived legislation many of which related Regulations and Orders have been developed over the past fifty years and are enforced by officers in areas of consumer protection such as metrology, product safety, fair trading, animal health and welfare and food safety.

Recommendation

8. The Committee is asked to note the information. Further information can be sought at: <https://lordslibrary.parliament.uk/queens-speech-2022-brex-it-retained-eu-law-and-the-protocol-on-ireland-northern-ireland/>

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Report to the Tyne and Wear Trading Standards Joint Committee

23 June 2022

Safety of electronic cigarette products known as “Disposable Puff Bars” or “Bars”

Anneliese Hutchinson, Service Director, Economy, Innovation & Growth, Gateshead Council

Purpose of the report

To provide Committee with an update on the issue related to the safety of certain electronic cigarette products known as “Disposable Puff Bars” or “Bars” and the response from the five local authorities within the region to this emerging issue.

1. The Medicines and Healthcare products Regulatory Agency (MHRA) is the competent authority for a notification scheme for e-cigarettes and refill containers in Great Britain and Northern Ireland and is responsible for implementing the majority of provisions under Part 6 of the Tobacco and related Products Regulations (TRPR) and the Tobacco Products and Nicotine Inhaling Products (Amendment) (EU Exit) Regulations 2020.
2. The TRPR introduced rules which ensure:
 - minimum standards for the safety and quality of all e-cigarettes and refill containers (otherwise known as e-liquids)
 - that information is provided to consumers so that they can make informed choices
 - an environment that protects children from starting to use these products.
3. The requirements:
 - restrict e-cigarette tanks to a capacity of no more than 2ml
 - restrict the maximum volume of nicotine-containing e-liquid for sale in one refill container to 10ml
 - restrict e-liquids to a nicotine strength of no more than 20mg/ml
 - require nicotine-containing products or their packaging to be child-resistant and tamper evident
 - ban certain ingredients including colourings, caffeine, and taurine
 - include new labelling requirements and warnings
 - require all e-cigarettes and e-liquids be notified to the MHRA before they can be sold
4. The 2020 Regulations sets out the requirements for new products to be notified from 1 January 2021. This means that:
 - Producers placing products on the Northern Ireland market will be required to notify using the EU Common Entry Gate (EU-CEG) system for the notification of tobacco and e-cigarette products.

- Producers placing products on the Great Britain market will be required to notify on the Great Britain domestic system.
 - Notifiers will be required to pay one fee if they notify in relation to placing products on one of the Great Britain or Northern Ireland markets and the same one fee if they notify in relation to placing products on the two markets.
5. A producer is anyone who manufactures or imports these products or who re-brands any product as their own. Retailers do not need to submit information for any products they sell unless they also qualify as a producer.

Advice for consumers

Reporting an adverse reaction via Yellow Card

6. If any consumer feels unwell after using an e-cigarettes product they can report side effects and safety concerns with e-cigarettes or refill containers to the MHRA through the Yellow Card Scheme.
7. Yellow Card reports submitted to the MHRA are added to their vigilance database where reports are looked at by their specialist team of assessors. Reports are assessed for potential patterns of concern by their team of scientists, doctors, and pharmacists. Should any potential safety concerns be identified the MHRA are able to take regulatory action to safeguard the public.
8. The e-cigarette Analysis Profile contains data for all spontaneous suspected adverse reactions, or side effects, which have been reported to the MHRA, via the Yellow Card scheme from healthcare professionals and members of the public involving a nicotine-containing e-cigarette. Only adverse reaction reports to nicotine-containing e-cigarettes appear on the Analysis Profile, reports of other product safety or quality concerns associated with e-cigarettes are shared with local Trading Standards officers and Public Health England as appropriate.

Notified products for Great Britain and Northern Ireland

9. The Tobacco and Related Products Regulations 2016 sets out the requirements for e-cigarettes and refill containers. Producers must submit information about their products to the MHRA through the MHRA Submission Portal and European Common Entry Gate (EU-CEG) notification portal for UK wide supply.

Advice for retailers

10. When sourcing new supplies of any e-cigarette or e-liquid product, retailers are advised to check that a compliant notification has been published in one of the Notified Product lists. If the product cannot be found on the MHRA's website, then the retailer should ask their supplier to confirm that it has been published and provide details to enable them to confirm the products status. If a product has yet to achieve publication status, they may not supply it to the retailer.
11. A retailer does not need to notify any products they sell unless they are also a 'producer' of the product. A producer is anyone who manufactures or imports e-cigarette or refill container products and anyone who re-brands them as their own.
12. If a retailer imports or re-brands products, they should check with their supplier whether they have already made a UK notification for the specific product that is

to be sold. If they have done so, the retailer does not need to submit a duplicate notification.

The Response from Local Authorities

13. The issue of non-conforming electronic cigarette products appearing on the market, has caused a great deal of concern to local authority Trading Standards services nationally. There appears to be a great deal of misunderstanding 'intentionally or otherwise' on what the legislation does permit to be marketed, on behalf of both retailers and producers. Market surveillance, responding to complaints, has taken place and where appropriate enforcement actions have been taken.
14. Officers with the City of Newcastle upon Tyne were involved in an enforcement action in November 2021, which resulted in the seizure of some £190,000 worth of non-compliant products. The action followed concerns expressed by schools in the city that underage pupils were accessing the non-compliant products.



Recommendation

15. The Committee is asked to note the information. Further information can be sought at: <https://www.gov.uk/guidance/e-cigarettes-regulations-for-consumer-products>
<https://www.chroniclelive.co.uk/news/north-east-news/newcastle-ecigarettes-police-haul-crime-22241826>

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Report to the Tyne and Wear Trading Standards Joint Committee

23 June 2022

An update on the proposed Food (Promotion and Placement) (England) Regulations 2021

Anneliese Hutchinson, Service Director, Economy, Innovation & Growth, Gateshead Council

Purpose of the report

To provide Committee with an update on the proposed Food (Promotion and Placement) (England) Regulations 2021 (the regulations).

Food (Promotion and Placement) (England) Regulations 2021

1. The regulations provide for restrictions on the promotions and placement in retail stores and their online equivalents of certain foods and drinks that are high in fat, salt, or sugar (HFSS) or 'less healthy'.
2. The Government consulted in 2019 on restricting the promotion of HFSS products by volume price (for example, multibuy offers such as 'buy one get one free') and location, both online and in store. The Government then consulted on technical enforcement of the restrictions in 2020.
3. Following these consultations, the Government introduced legislation to restrict the promotion of HFSS products by volume price (for example, 'buy one get one free') and location, both online and in store in England. (HFSS is otherwise known as 'less healthy food and drink') These regulations were planned to come into full force on 1 October 2022.
4. Government believes that evidence shows that food retail price promotions are widespread and effective at influencing food preferences and purchases (particularly for children). Previous reports recommended that reducing and rebalancing promotions towards healthier food and drink is essential to help reduce children's sugar and calorie intakes and help tackle obesity.
5. Furthermore, the shopping environment plays an important part in the way products are marketed to us, with simple factors such as the location of products within stores significantly affecting what we buy. The current retail promotional environment:
 - does not always align with government healthy eating guidelines
 - makes it harder for families to make healthier choices when shopping
6. The Government believes that compliance by industry with the promotion and placement regulations can significantly improve our food environment by ensuring healthier food is more easily accessible and more visible in shops, ultimately supporting people to lead healthier lives.

7. The regulations aim to restrict promotions of HFSS or 'less healthy' products by:
 - volume price – for example, multibuy offers
 - key locations (store entrances, aisle ends and checkouts) when retail stores are over 185.8 square metres (m²) (or 2,000 square feet (sq. ft)) and the equivalent key locations online
8. These restrictions apply to medium and large businesses (with 50 employees or more). Failure to comply with regulations may result in a business being issued with an improvement notice and subsequently a fixed monetary penalty if compliance is not achieved as required.

Enforcement of the regulations

9. The regulations may be enforced by trading standards or environmental health officers depending on local arrangements. Officers will be authorised to carry out their functions to enforce these regulations.
10. Enforcement authorities will check:
 - whether a store is part of a medium or large business (where the total number of employees operating under that business name is 50 or more) – if not, the business is out of scope of the regulations
 - whether a store is a specialist store selling one type of product (exempt from location restrictions)
 - whether a store size is less than 185.8m² (2,000 square feet) (exempt from location restrictions)
 - the presence of any products that are part of the food in scope categories in a restricted volume price or location promotion, in store and online
 - if there are products in these categories on volume price or location promotions, to ascertain from the retailer how they have ensured that these are not HFSS or 'less healthy'.

Latest Position

11. On the 14 May 2022 the Government announced that the full implementation of the regulations will be delayed in light of unprecedented global economic situation and in order to give industry more time to prepare for the restrictions on advertising
 - Rules limiting the location of unhealthy foods in shops will go ahead as planned in October 2022.
 - Rules banning multibuy deals on foods and drinks high in fat, salt, or sugar (HFSS) – including buy one get one free (BOGOF), '3 for 2', and restrictions on free refills for soft drinks – will be delayed for a year.
 - Restrictions on the placement of less healthy products – a key part of the government's commitment to reduce obesity – will still come into force in October 2022 as planned. These will mean less healthy products are no longer promoted in key locations, such as checkouts, store entrances, aisle ends and their online equivalents.

Recommendation

12. The Committee is asked to note the information. Further information can be sought at: <https://www.gov.uk/government/publications/restricting-promotions-of-products-high-in-fat-sugar-or-salt-by-location-and-by-volume-price/restricting-promotions-of-products-high-in-fat-sugar-or-salt-by-location-and-by-volume-price-implementation-guidance>

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**Report to the Tyne and Wear Trading
Standards Joint Committee**

23 June 2022

**An update on the implementation of the
Offensive Weapons Act 2019.**

**Anneliese Hutchinson, Service Director, Economy, Innovation & Growth,
Gateshead Council**

Purpose of the report

To provide Committee with an update on the issue related to the implementation of the Offensive Weapons Act 2019 (the Act). The relevant provisions of the Act were brought into force on the 6 April 2022.

Purpose of the provisions of the Offensive Weapons Act 2019

1. The Act includes new legislative measures to control the sale of knives and corrosive products, and it introduces new offences relating to their possession and use.
2. The Act creates a new criminal offence of selling a corrosive product to a person under the age of 18. The substances and concentration levels that constitute corrosive products for this purpose are set out in Schedule 1 of the Act. The Act contains a delegated power to amend the Schedule to add, remove or modify substances and concentration levels as required.
3. The Act provides defences that can apply to the offence of selling bladed articles to under 18s, in the case of the remote sales. Remote sales include online sales, mail-order or over the phone sales. The defence requires proof that the seller took all reasonable precautions and exercised due diligence to avoid committing the offence of selling to an under 18 offence. To rely on the defence, as a minimum, all of the conditions set out in section 35 of the Act must be met.
4. The Act provides defences to the offences of delivering, or arranging delivery of, a bladed product to residential premises or to a locker and the offence of delivering bladed products to an under 18 at residential premises unless the seller meets certain conditions (had procedures in place which were likely to ensure that any bladed product would be delivered into the hands of someone over 18 and took all reasonable precautions and exercised all due diligence, to ensure the product was delivered to someone over 18, or the product was designed, manufactured, adapted for the buyer in accordance with their specifications or if the products was for sporting purposes or historical re-enactment).
5. The term “bladed product” is a new term introduced in the Act and is intended to cover a subset of bladed articles and it means an article with a blade that is capable of causing a serious injury to a person which involves cutting that person’s skin.

6. Where the seller is based outside of the UK, the delivery of a bladed product to a person under 18 is a criminal offence for the delivery company that delivers the product on behalf of the overseas seller. There are defences to this offence where the delivery company takes all reasonable precautions and exercises all due diligence to avoid delivering the bladed product into the hands of a person under 18.
7. The Primary Authority scheme, that applies to Trading Standard Authorities, has been extended to cover the sale, delivery etc of knives (including bladed articles and bladed products), corrosive products and other offensive weapons.
8. The Act updates the definition of a flick knife to include those where the mechanism is not within the handle. It also prohibits the possession of flick knives and gravity knives in private. The sale, importation, manufacture, supply, and possession in public is already prohibited.

Recommendation

9. The Committee is asked to note the information. Further information can be sought at: <https://www.gov.uk/government/publications/the-offensive-weapons-act-2019/statutory-guidance-offensive-weapons-act-2019-accessible-version>

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