



## ***TYNE AND WEAR TRADING STANDARDS JOINT COMMITTEE AGENDA***

**Thursday, 2 March 2023 at 10.00 am in the Whickham Room - Civic Centre**

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From the Chief Executive, Sheena Ramsey

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Item	Business
<b>1</b>	<b>Apologies for Absence</b>
<b>2</b>	<b>Minutes</b> (Pages 3 - 18)  The Joint Committee is asked to approve as a correct record the minutes of the previous meeting held on 23 June 2022.  Please note attached are the notes from the inquorate meeting held on 24 November 2022.
<b>3</b>	<b>Report and Statistical Return for Period to March 2023</b> (Pages 19 - 22)  Report of the Strategic Director, Economy Innovation and Growth
<b>4</b>	<b>Projected Outturn as at 31 January 2023 - Draft Budget for the 2023/24 financial year</b> (Pages 23 - 30)  Report of the Strategic Director, Resources and Digital
<b>5</b>	<b>Update on Implementation of the Leasehold Reform (Ground Rent) Act 2022</b> (Pages 31 - 38)  Report of the Service Director, Economy, Innovation and Growth
<b>6</b>	<b>LGA Public Protection Services - A Handbook for Councillors</b> (Pages 39 - 40)  Report of the Service Director, Economy, Innovation and Growth
<b>7</b>	<b>Update on the Successful Funding Bid to OPSS January 2023</b> (Pages 41 - 42)  Report of the Service Director, Economy, Innovation and Growth
<b>8</b>	<b>Vaping - Call for Change by LGA and ASH</b> (Pages 43 - 44)  Report of the Service Director, Economy, Innovation and Growth

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**GATESHEAD METROPOLITAN BOROUGH COUNCIL**  
**TYNE AND WEAR TRADING STANDARDS JOINT COMMITTEE MEETING**

**Thursday, 23 June 2022**

**PRESENT:** Councillor K Dodds (Chair)

Councillor(s): C Buckley, T Graham, I Patterson, Heron,  
Councillor J O'Shea, Hunter, Mulvenna, ALamonte,  
R Porthouse, IAli and Councillor M Lawson

**IN ATTENDANCE:** Councillor(s):

**APOLOGIES:** Councillor(s): Councillor J Fletcher, Councillor S Graham,  
S Dean and Lovatt

**TW61 APPOINTMENT OF CHAIR**

RESOLVED - That Councillor Kevin Dodds (Gateshead Council) be  
appointed as Chair for the 2022/23 Municipal Year

**TW62 APPOINTMENT OF VICE-CHAIR**

RESOLVED - That Councillor Jill Fletcher (Sunderland) be appointed as  
Vice-Chair for the 2022/23 Municipal Year.

**TW63 CONSTITUTION**

RESOLVED - That the constitution of the Committee for the 2022/23  
Municipal Year be noted.

**TW64 MINUTES**

RESOLVED - that the minutes of the meeting held on 7 October 2021 were  
approved as a correct record.

**TW65 REPORT AND STATISTICAL RETURN FOR THE QUARTER ENDING JUNE 2022**

The Committee received the report to inform them of the work of the Joint Metrology  
Laboratory for the period to end of June 2022.

The Laboratory has undergone some staff changes with both the Laboratory  
Manager and Admin Assistant serving notice periods before leaving in December  
2021.

The laboratory is back to its full complement of 6 staff and currently on a temporary  
basis the Laboratory manager and technical manager role are split between two

staff. Discussions are ongoing with a longer-term plan on structure of staff and an update will be brought to a future committee.

The submissions to the laboratory have been constant and consistent with the same periods as in previous years. Turnaround times in returning work to clients with being a staff member down were increased by an additional 3 days. The turnaround times are now returning to pre-pandemic levels.

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 they were still receiving a service as their business would suffer if this service was not provided.

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.

The Public Weighbridge is still being utilised by clients and provide an essential service to the 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.

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

The UKAS Calibration submissions have been consistent and there have been more items submitted in 2021 than the previous years.

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 and was 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.

As was reported previously the laboratory has been appointed by Office of Product Safety and Standards as the produce 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.

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.

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.

RESOLVED - That the information presented be noted.

#### **TW66 FINAL OUTTURN FOR FINANCIAL YEAR 2021/22**

The Committee received a report to provide an update on the final outturn for the financial year 21/22. The Committee were advised that the accounts have not yet been audited but are not expected to change.

It is anticipated that there will be a surplus for 2021 / 2022 in the region of £36,000 due to staffing. This will be added to the reserves which will amount to £166,000.

The proposed budget for 2022/203 is £380,000. The main changes is in relation to contributions going up by 3%. There have also been some minor tweaks to bring in line with the actuals.

It was noted that this was a fantastic outturn and next years budget looks good.

RESOLVED - That the information contained within the report be noted.

#### **TW67 AVIAN FLU JUNE 2022**

The Committee received a report on the seasonal threat and the response from the five local authorities within the region from avian flu. This is another area which Trading Standards would deal with and it is a notifiable animal disease which can affect many birds. It can also affect humans and other mammals.

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.

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.

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 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. 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.

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.

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.

During the outbreak, 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.

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

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.

Highly pathogenic avian flu was confirmed in birds at premises near Byker, Newcastle upon Tyne 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. Following successful completion of disease control zones surrounding the premises the 3km protection zone has ended and the 10km surveillance zone has been revoked.

Highly pathogenic avian flu was confirmed in a small poultry flock at a premises near Blaydon, Gateshead on 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.

Following successful completion of disease control activities and surveillance within the disease control zones surround this premises the 3km protection zone has ended and the 10km surveillance zone has been revoked.

RESOLVED - that the information presented be noted.

The Committee received a report to provide an update on the issues related to the proposed Brexit Freedoms Bill (the Bill). The relevant announcement was made in the Queens Speech on 5 May 2022.

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 could cut £1bn of red tape for UK businesses.

"Retained EU law" is a concept created by the European Union (Withdrawal) Action 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.

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.

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.

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.

It was queried whether the Kite Mark would come back. It was noted that it is likely to be CE mark. It was noted that manufacturers will strive to export and that our current standards will be accepted and meet EU standards.

RESOLVED - that the information be noted.

**TW69      SAFETY OF ELECTRONIC CIGARETTE PRODUCTS KNOWN AS "DISPOSABLE PUFF BARS" OR "BARRS"**

The Committee received a report to provide 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.

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.

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.

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

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.

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.

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.

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.

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.

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.

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 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.

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.

It was noted that there is concern that these types of e cigarettes are becoming popular with young people. They are fruity and addictive. Children are now taking up vaping as a habit. Trading Standards are finding lots of products that are not approved, some of which contain more nicotine than permitted. Kids are getting hold of these products and taking them into the toilets at school at break time. The price varies from £8 - £20.

There is hopefully something going out on BBC Breakfast. Officers from Newcastle did a test purchase with Radio 5 live. Public Health are very clear that these should be used as an alternative to smoking for those looking to give up smoking and gradually reduce the amount of nicotine they inhale.

It was noted that officers are looking to have them treated in the same way as cigarettes then there may be a reduction in the attraction of them to young people.

It was suggested that the Chair of the Committee write to the relevant government departments on behalf of the Committee.

RESOLVED - That arrangements be made for a letter to be sent on behalf of the Committee to relevant government departments on the need for a tightening of restrictions in relation to e-cigarettes.

## **TW70 FOOD PROMOTION AND PLACEMENT REGULATIONS**

The Committee received a report to provide an update on the proposed Food (Promotion and Placement) (England) Regulations 2021 (the regulations).

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'.

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.

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.

Government believes that evidence shows that food retail price promotions are widespread and effective at influencing food preferences and purchases (particularly for children).

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

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.

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 (m<sup>2</sup>) (or 2,000 square feet (sq. ft)) and the equivalent key locations online

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.

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.

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 185.8m<sup>2</sup> (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'.

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.

RESOLVED - That the information contained within the report be noted.

TW71

OFFENSIVE WEAPONS ACT 2019

The Committee received a report to provide them with an update on the implementation of the Offensive Weapons Act 2019 (the Act). The relevant provisions of the Act were brought into force on 6 April 2019.

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.

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.

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.

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.

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.

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.

It was noted that in a global market it is difficult as is it only possible to take action with traders who live in the zone of enforcement.

It is hoped that this legislation whilst may not prevent attacks all together will reduce them.

RESOLVED - That the information contained within the report be noted.

**Chair.....**



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## **TYNE AND WEAR TRADING STANDARDS JOINT COMMITTEE MEETING**

**Thursday, 24 November 2022**  
**NOTES OF INQUORATE MEETING**

**PRESENT:** Councillor K Dodds (Chair)  
  
Councillor(s): C Buckley, Councillor J O'Shea and  
Councillor M Lowson

**APOLOGIES:** Councillor(s): Councillor J Fletcher, T Graham,  
I Patterson, Heron, P Walker, C Rowntree and IAli

### **TW73 MINUTES**

Members noted the minutes of the meeting held on 24 June 2022.

### **TW74 PROJECTED OUTTURN AS AT 30 SEPTEMBER 2022**

Members noted a report on the projected outturn as at 30 September 2022.

### **TW75 REPORT AND STATISTICAL RETURN FOR PERIOD TO NOVEMBER 2022**

Members noted a report on the work of the Joint Metrology Laboratory for the period ending November 2022.

The laboratory is back to full strength with 6 members of staff. The new staff have settled well. Submissions to the laboratory remain consistent when compared to last year's record submissions. With recently recruited staff trained and up to speed with the laboratories working practices turnaround times to all customers are back to expected levels.

The laboratory has a loyal customer base throughout Tyne and Wear and beyond that continues to use its calibration services for weights, scales and measures. The public weighbridge continues to be an essential service.

The laboratory has taken part in two 'inter-lab' comparisons, one with Devonshire County Council for weights and one with Micro Weighing Solutions for non-automatic weighing instruments (NAWI). These comparisons are seen as good practice throughout the industry and are recognised by UKAS during the annual audit.

The laboratory will be audited by UKAS in January 2023 for both mass calibration and toy testing.

The Office of Product Safety and Standards (OPSS) has confirmed the extension of the sampling budget until the end of the current financial year. The laboratory will continue as the sample hub for the North East, Yorkshire and Humberside regions, organising the testing of products on behalf of the Local Authorities that we represent.

**TW76      UPDATE ON THE PASSING OF THE FIREWORKS AND PYROTECHNIC ARTICLES (SCOTLAND) BILL**

Members noted a report on the passing of a Fireworks and Pyrotechnic Articles Bill that has been introduced in Scotland.

The Bill introduces a fireworks licensing system, with mandatory safety training for people wishing to purchase and use fireworks. It also introduces powers for local authorities to designate firework control zones, restrictions on the supply of fireworks and pyrotechnics to under 18s.

Being in possession of a firework or other pyrotechnic in a public place or at certain places or events without reasonable excuse also becomes an offence.

The Bill received backing from a coalition of professional medical bodies including the BMA, The Royal College of Ophthalmology, and the British Society for Surgery of the Hand, along with support from emergency services and animal charities.

**TW77      UPDATE ON THE RESPONSE TO ROGUE DOOR TO DOOR FISH SELLERS**

Members noted a report on the regional response to the important issues of Rogue Door to Door Fish Sellers.

One of the most identifiable issues related to doorstep crime for Trading Standards services/Environmental Health services and also the Police Service is the illegal activities of certain rogue individuals going door to door targeting the most vulnerable and selling quantities of fish.

When buying fish from door to door salesman, the consumer very often has no way of knowing how the fish have been stored and whether they are safe to eat. It can also be difficult to know whether door to door traders are registered as a food business operator, which is a legal requirement, or if they are adhering to all food safety and hygiene regulations. There are also concerns that the traders may pressurise residents to buy more than they actually need.

Following concerns about these illegal activities both locally and indeed national the Regional Investigations Team hosted by Redcar and Cleveland BC and funded by the National Trading Standards Board continues to undertake a complex investigation into these illegal activities.



The report identified a number of prosecutions with further cases pending.

## **TW78      UPDATE ON THE KHAN REVIEW: MAKING SMOKING OBSOLETE**

Members noted a report t on the Khan Review – Making Smoking Obsolete.

In a significant independent review into the government's current tobacco control policies, led by Dr Javed Khan OBE which looked into whether the government will achieve its ambition to make England smoke free by 2030.

The report recognises that although good long-term progress has been made in reducing smoking rates to their lowest ever level, almost 6 million people still smoke in England and smoking is still one of the largest cause of health disparities.

This review was commissioned by the Secretary of State for Health and Social Care, and it provides independent, evidence-based advice that will inform the government's approach to reduce the numbers of people taking up smoking and helping smokers to quit.

The report sets out the case for comprehensive investment now of an additional £125million per year in smokefree 2030 policies. If the government cannot fund this themselves the report recommends that they should 'make the polluter pay' and either introduce a tobacco industry levy, or generate additional corporate tax, with immediate effect.

The government must stop young people starting to smoke, which is why it is recommended to increase the age of sale from 18 by one year every year until no one can buy tobacco in this country.

The report recognises to achieve its recommendations that it will also be important to tackle illicit tobacco, which often sells tobacco cheaply and to underage young people.

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**Chair.....**

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**02 March 2023**

**Report for period to March 2023**

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

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**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 is operating at full strength with 6 members of staff but with the Senior Trading Standards Officer (STSO) working on a part-time basis of 2 days. As previously reported, Allan Winthrop (STSO) is retiring on the 31<sup>st</sup> of March 2023. The post has been advertised but so far, a suitable replacement has not been identified. Various options are being considered and the committee will be kept informed of any relevant appointments.
2. David Malone and Stephen Rudd continue to act as Laboratory Manager and Technical Manager respectively.
3. Submissions to the laboratory remain consistent. Attached as Annex 1 to this report are annual totals of submissions for 2022, with 2021 added for comparison. Overall submissions are slightly up which should have a positive effect on end of year finances.
4. The building adjacent to the laboratory has recently changed ownership and is undergoing refurbishment into retail units. The overall building has right of access through the laboratory car park. To make access for staff, laboratory customers and the new neighbours as safe as possible the car park is remarked to introduce a 1-way system and designated parking bays.

**Aid and Advice to Industry**

5. The laboratory's hire weights have been in high demand in recent months with up to 4 tonnes at a time being used to assist external partners in the calibration of weight platforms at pharmaceutical and other manufacturing sites.
6. The Public Weighbridge continues to offer an essential service within the region both to regular business customers and to individuals keen to ensure their vehicles are roadworthy and legal to use on public roads. As we approach the holiday season, we are seeing an increase in the number of motorhomes and caravans using the weighbridge.
7. The laboratory has booked the weighbridge test unit (WBTU) for a week in May to enable each of the 5 Tyne and Wear authorities to check weighbridges in their

areas. The WBTU is available to each authority for 1 day.

### **Inter-Laboratory Comparisons**

8. The laboratory took part in an 'inter-lab' comparison on our accredited volumetric work with Howard Burnett Consultancy. These comparisons are seen as good practice throughout the industry and are recognised by UKAS during the annual audit. In this instance, the ILC was conducted alongside the recent UKAS visit so was also used as a competency check. The aim is to increase volumetric submissions to the laboratory.

### **UKAS Calibrations**

9. The submissions have been consistent, as reflected within in Annex 1.
10. The laboratory underwent its annual UKAS audit in January for both mass calibration and toy testing, receiving positive feedback from the auditing team. There are some minor points for the laboratory to clarify with UKAS before the report is finalised but nothing to prevent both accreditations being renewed for a further year.

### **Product Safety**

11. As the Office of Product Safety and Standards (OPSS) regional hub for product safety, the laboratory serves not only the North-East but also Yorkshire and Humberside. As we approach the end of the financial year it is pleasing to note that all the £28,000 budget has been used. Whilst most of the funding has paid for external testing the laboratory is reimbursed for staff time. Some of the items tested this year include, fireworks, motorcycle goggles, mattresses, soaps, candles, and toys.
12. The laboratory has recently had another successful bid for OPSS funding for which there is a separate report. The funding is for up to £10,000 for the supply of a public safety information activity.

### **Recommendation**

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

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Contact: David Malone, Gateshead Council, 0191 4784550 or [davidmalone@gateshead.gov.uk](mailto:davidmalone@gateshead.gov.uk)

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### Annual Total 2022

Submissions		Items
244	UKAS M1	<b>3475</b>
32	UKAS F2	<b>217</b>
257	UKAS F1	<b>1726</b>
66	UKAS E2	<b>731</b>
<b>Total UKAS Submissions</b>		<b>6149</b>
42	Sec 74(4)	<b>131</b>
0	NAWI	<b>2</b>
2	Volume	<b>1</b>
0	Traders	<b>0</b>
0	Verification	<b>1</b>
<b>Total Submissions</b>		<b>6284</b>

### Annual Total – 2021

Submissions		Items
373	UKAS M1	<b>3060</b>
37	UKAS F2	<b>222</b>
528	UKAS F1	<b>1959</b>
139	UKAS E2	<b>722</b>
<b>Total UKAS Submissions</b>		<b>5963</b>
36	Sec 74(4)	<b>50</b>
8	NAWI	<b>8</b>
1	Volume	<b>1</b>
12	Traders	<b>67</b>
8	Verification	<b>8</b>
<b>Total Submissions</b>		<b>6097</b>

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

**2<sup>nd</sup> March 2023**

**Projected Outturn as at 31<sup>st</sup> January 2023  
Draft Budget for the 2023/24 financial year**

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**Darren Collins, Strategic Director, Resources and Digital, Gateshead Council**

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**Purpose of the report**

To advise the Joint Committee of the projected outturn for 2022/23 and the draft budget for the 23/24 financial year.

**Background**

1. The projected revenue outturn for 2022/23, as at 31st January 2023 is set out in Appendix 1.
2. The draft budget for the 23/24 financial year is set out in Appendix 2.

**Recommendation**

3. The Joint Committee is recommended to:
  - Note the details of the report at Appendix 1.
  - Note the details of the report at Appendix 2.

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Contact: Michelle Pope, Gateshead Council email [michellepope@gateshead.gov.uk](mailto:michellepope@gateshead.gov.uk)

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## Appendix 1

	Budget 22/23 £	Outturn 22/23 £	Variance 22/23 £	Notes
<b>Income</b>				
Fees & Charges	140,545	116,504	24,041	<i>Actuals: 19/20 £145k, 20/21 £115k, 21/22 £115k</i>
S.11 Stamping Fees	7,911	500	7,411	
Levy on Constituent Authorities	231,635	231,635	0	
<b>Total Income</b>	<b>380,091</b>	<b>348,639</b>	<b>31,452</b>	
<b>Expenditure</b>				
<i>Employees</i>				
Direct Pay	247,519	218,127	-29,392	<i>Vacant Labratory Manager post partially offset by senior staff acting up.</i>
Indirect Pay	358	0	-358	
	247,877	218,127	-29,750	
<i>Premises</i>				
Repairs & Maintenance	14,829	14,829	0	
Utilities	16,080	28,971	12,891	
Rent	4,000	4,000	0	
Rates	9,180	9,180	0	
Other	7,559	8,520	961	
	51,648	65,500	13,852	
<i>Transport</i>				
Car Allowances	500	500	0	
Vehicle Running Costs	1,000	1,000	0	
	1,500	1,500	0	
<i>Supplies &amp; Services</i>				
Furniture & Equipment	21,000	8,029	-12,971	<i>2021/22 included hire of weighbridge and test unt.</i>
Equipment Lease - Hire Or Rent	10,852	5,000	-5,852	
UKAS Fees	9,000	9,000	0	
Telephones	1,000	719	-281	
Printing & Stationery	2,855	2,778	-77	
Insurance	4,135	9,135	5,000	
Postage	1,000	0	-1,000	
Miscellaneous	7,000	6,627	-373	<i>Includes memberships to BSI and UK Weighing Fed £2k</i>
	56,842	41,288	-15,554	
<i>Central Admin</i>				
Met Lab Central Admin	38,798	38,798	0	
	38,798	38,798	0	
<b>Total Expenditure</b>	<b>396,665</b>	<b>365,213</b>	<b>-31,452</b>	
<b>Net Expenditure</b>	<b>16,574</b>	<b>16,574</b>	<b>0</b>	0
	0	-0	-0	

	<b>Outturn</b>
	<b>22/23</b>
	£
<b>Reserve balance at 31st March 2022</b>	<b>-166,150</b>
<i>Expected transfer from Reserve</i>	16,574
<b>Expected reserve balance at 31st March 2023</b>	<b>-149,576</b>

**Levy on Constituent Authorities**

Gateshead Contributions	41,977
Sunderland	57,762
Newcastle	58,741
LACB South Tyneside	31,056
LACB North Tyneside	42,099
	<b><u>231,635</u></b>

## Appendix 2

	Outturn 22/23	Budget 22/23	Draft Budget 23/24
<b>Income</b>			
Fees & Charges	116,504	140,545	143,615
S.11 Stamping Fees	500	7,911	7,911
Levy on Constituent Authorities	231,635	231,635	238,584
<b>Total Income</b>	<b>348,639</b>	<b>380,091</b>	<b>390,110</b>
<b>Expenditure</b>			
<b>Employees</b>			
Direct Pay	218,127	247,519	247,519
Indirect Pay	0	358	150
	218,127	247,877	247,669
<b>Premises</b>			
Repairs & Maintenance	14,829	14,829	15,000
Utilities	28,971	16,080	31,500
Rent	4,000	4,000	4,000
Rates	9,180	9,180	9,180
Other	8,520	7,559	8,500
	65,500	51,648	68,180
<b>Transport</b>			
Car Allowances	500	500	500
Vehicle Running Costs	1,000	1,000	1,000
	1,500	1,500	1,500
<b>Supplies &amp; Services</b>			
Furniture & Equipment	8,029	21,000	21,000
Equipment Lease - Hire Or Rent	5,000	10,852	11,000
UKAS Fees	9,000	9,000	9,000
Telephones	719	1,000	1,000
Printing & Stationery	2,778	2,855	2,800
Insurance	9,135	4,135	9,200
Postage	0	1,000	0
Miscellaneous	6,627	7,000	7,000
	41,288	56,842	61,000
<b>Central Admin</b>			
<b>Met Lab Central Admin</b>	38,798	38,798	38,798
	38,798	38,798	38,798
<b>Total Expenditure</b>	<b>365,213</b>	<b>396,665</b>	<b>417,147</b>
<b>Net Expenditure</b>	<b>16,574</b>	<b>16,574</b>	<b>27,037</b>
	0	0	
<b>Contributions</b>			
Gateshead	-41,977	-41,977	-43,236
Sunderland	-57,762	-57,762	-59,495
Newcastle	-58,741	-58,741	-60,503
South Tyneside	-31,056	-31,056	-31,988
North Tyneside	-42,099	-42,099	-43,362
	-231,635	-231,635	-238,584
Expected Reserve Balance b/forward 1st April 2023	-149,576		
Expected transfer from Reserve 23/24	27,037		

Reserve Balance c/forward 31st March 2024

-122,539

## Notes

3.0% Increase in UKAS fees & Charges only

No change

3.0% Increase For Inflation

Expect vacancies to be filled, no potential 23/24

pay rise factored in yet

Training

Increased as per 22/23 outturn inflated 5%

Increase

3%

3%

3%

3%

3%



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

**2<sup>nd</sup> March 2023**

### Update on Implementation of the Leasehold Reform (Ground Rent) Act 2022

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

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#### **Purpose of the report**

1. The purpose of this report is to inform Members of the implementation of the Leasehold Reform (Ground Rent) Act 2022 ('the Act').
2. The Act puts an end to ground rents for most new long residential leasehold properties in England and Wales. Royal Assent was granted on 8 February 2022 and the Act was brought into force on 30 June 2022.
3. The Government takes the view that the Act will make home ownership fairer and more transparent for millions of future leaseholders. The Government believes that the reputation of the leasehold system has been damaged by unfair practices that have seen some leaseholders contractually obligated to pay onerous and escalating ground rents, with no clear service in return. The Act is seen as preventing this from happening in future, tackling significant ambiguity and unfairness for future leaseholders.

#### **What the Ground Rent Act means**

4. From 30 June 2022, landlords of regulated leases must not require a leaseholder to make a payment of prohibited rent.
5. The peppercorn limit generally only applies to new residential leases that were granted after commencement of the Act, that is leases granted on or after 30 June 2022. If a consumer bought a new (regulated) lease after this date they will not be faced with financial demands for ground rent. There are some exceptions to this, which are listed below.

#### **What is Ground Rent?**

6. A 'ground rent' is a property industry term given to a rent that is usually paid annually by owners of residential long leases to their landlord.
7. Long leases (those exceeding 21 years) frequently require a leaseholder to pay an annual ground rent, often hundreds of pounds a year, for which the landlord does not have to provide a clear service in return.
8. A ground rent is not defined in law in England and Wales – the term 'rent' is used in legislation covering the long leasehold sector as it is in other areas of property law.

## **What is a ‘peppercorn’ ground rent?**

9. Historically, a ‘peppercorn’ ground rent often meant a rent that was of nominal or low value.
10. The Act defines a peppercorn rent for the first time, which is ‘an annual rent of one peppercorn’. The Act restricts ground rents on new leases (unless an excepted or non-regulated lease) to a peppercorn rent, effectively restricting these ground rents to zero financial value. There is no obligation on a landlord to levy a peppercorn rent.

## **What does the Act do?**

11. The Act means that any ground rent demanded as part of a new regulated residential long lease where a premium is paid may not exceed more than one peppercorn per year. Most new leaseholders will not be faced with financial demands for ground rent.
12. The Act also bans landlords from charging administration fees for collecting a peppercorn rent. If a landlord charges ground rent in contravention of the Act, they are liable to receive a financial penalty between £500 to £30,000.
13. The Act also bans landlords from charging a fee related to the collection of a peppercorn rent, which reduces the incentive to charge a leaseholder an actual peppercorn.

## **Transition period**

14. There is a transition period that applies to regulated leases of retirement homes, which means the Act will not come into force for these leases any earlier than 1 April 2023.

## **Enforcement**

15. Enforcement will be the duty of the local weights and measures authority (Trading Standards teams) in England and Wales.

## **Generally, a lease will be regulated by the Act where:**

- It is granted on or after 30 June 2022.
- It is a long lease (exceeding 21 years) for a single dwelling.
- It was granted for a premium (a premium is usually known as the “purchase price”), this also includes where a lease has been changed (referred to as ‘varied’) by a ‘deemed surrender and regrant’ and no premium was required.
- It is not an excepted lease.
- Statutory lease extensions for flats must already be granted at a peppercorn (regardless of this Act).



### **The Act will not apply where:**

- A lease is not a regulated lease.
- Buyers and sellers enter into a legally binding contract (i.e., exchange of contracts) for the grant of a lease (other than an option or right of first refusal) before 30 June 2022, even if the lease itself is granted after 30 June 2022.
- Leases are for of community-led housing, certain financial products, and business leases.
- Voluntary or non-statutory lease extensions, which can retain the existing level of ground rent for the remainder of the original lease period.
- In a shared ownership lease, where rent is payable on the landlord's owned share and the peppercorn rent limit applies to the leaseholder's owned share.

### **Business leases**

16. A landlord may charge ground rent of more than 'an annual rent of one peppercorn' if the lease is a business lease. A business lease is where:

- The lease allows the premises to be used for business purposes (without needing further consent from the landlord for this use).
- The use of the dwelling significantly contributes to this business purpose, for example a residential flat above a commercial shop which is where the shop keeper lives who is also required to open the shop at certain times.
- At or before the time the lease is granted the landlord and leaseholder exchange written notices confirming that the use of the premises is for the business purposes specified in the lease.

### **What does the written notice for business premises need to contain?**

17. The written notice must contain:

- The address (or an identifying description sufficient to identify the premises) for the lease in question, and statements to the effect that:
- The landlord or leaseholder (or prospective landlord or leaseholder) intends the premises demised by the lease to be used, and to continue to be used for purposes which are business purposes, and this is expressly permitted by the lease (and no further consent is required from the landlord for such use).
- The nature of the business purposes permitted by the lease (or prospective lease) is such that the use of the premises demised by the lease as a dwelling significantly contributes to the business purposes.
- The lease (or prospective lease) is excepted from the Act and the lease can require the leaseholder to pay a rent which is more than a peppercorn rent.
- The name and signature of the landlord or leaseholder (or prospective landlord or leaseholder) giving the notice, or the person authorised to give the notice on that person's behalf.
- The notice can be given by hand, left at the address, sent by post or via electronic communication. The notice must not be included as part of the lease.

## **If I am a leaseholder?**

18. What should a consumer do if their lease says that they have to pay a ground rent?

- The consumer needs to check whether the lease is covered by this Act. The Act's peppercorn limit only applies to leases granted on or after 30 June 2022.
- If the lease is regulated by the Act and says a prohibited rent is required initially they should speak to their landlord informally and request that the lease complies with the Act. If this does not resolve the situation and the consumer wants to take further action, there are a number of organisations that may assist.
- The Act requires that, where a regulated lease has a term requiring payment of a prohibited ground rent it must be treated as if that prohibited rent is replaced with a permitted rent. This happens without any formal change to the lease being required.

19. There may be situations where a leaseholder or landlord want the lease formally varied and may seek a declaration from the First-tier Tribunal (Property Chamber) as to the effect of a term in a lease that requires the payment of ground rent. This might be desirable if there is disagreement on whether a ground rent term in a lease is a prohibited rent or what permitted rent it should be replaced with, under section 7 of the Act.

## **What should I do if I a consumer has paid a prohibited ground rent?**

20. Where a lease is regulated by the Act, and a consumer has wrongly been required to pay and have paid a prohibited rent, they should speak to their landlord to request that they repay the amount within 28 days, as the Act requires them to do.

21. Where a landlord or a person acting on their behalf (such as a managing agent) requires a payment of prohibited rent and/or does not refund it within 28 days, an enforcement authority may investigate and consider taking enforcement action against that person. This can include requiring the payments to be refunded by the person who received them and issuing a financial penalty against the landlord (but not a person acting on their behalf).

22. Alternatively, the consumer or their guarantor, or a person acting on their behalf may apply to the First-tier Tribunal for a recovery order, instead of one being issued by an enforcement authority. Consumers may be able to seek support with doing this from their local Trading Standards service.

## **How does the Act affect a non-statutory (voluntary) lease extension of existing leases that charge ground rent?**

23. Where a consumer negotiates a non-statutory (voluntary) lease extension and the lease is regulated by the Act, the new portion of the lease that extends beyond the date of the original term must only charge a peppercorn ground rent. The ground rent charged on the balance of the term of the original lease must not exceed the original ground rent and the parties may agree to a lower ground rent for the balance of the original term.

24. Specialist advice should be taken when considering a lease extension. If a consumer has extended the lease and the landlord charges a rent that is prohibited, the consumer should take legal advice. Trading Standards may investigate and consider taking enforcement action against that person.

### **What should I do if I am a landlord?**

25. What should I do if I, or a person acting on my behalf, charge a leaseholder a prohibited ground rent?

- Where the rent is prohibited by the Act, you must refund it within 28 days of the payment being made. If you fail to refund all of the payment(s) you should be aware that you could be investigated by an enforcement authority, issued with a penalty and the prohibited amount can be recovered through a recovery order (issued by either an enforcement authority or the First-tier Tribunal) in the County Court.

### **What action can an enforcement authority take against me as a landlord?**

- Prior to making a final decision about what enforcement action should be taken, the landlord will be invited in a notice of intent to make written representations about the alleged breaches under investigation. The landlord will have 28 days in which to respond to this notice.

### **Financial penalty**

26. Following issuing a notice of intent, and a final notice, where the enforcement authority has sufficient evidence that a breach has been committed, it may impose a financial penalty on a landlord (but not a person acting on their behalf). The amount of the financial penalty that may be issued for a breach of the Act is subject to the discretion of the enforcement authority, within the limits of a minimum of £500 and a maximum of £30,000.

### **Recovery order**

- A recovery order can be issued by the enforcement authority against the landlord, or the person acting on their behalf who received the prohibited rent payment. An enforcement authority cannot issue a recovery order where a leaseholder (or person acting on behalf of the leaseholder) has made their own application to the First-tier Tribunal for a recovery order under section 13 of the Act. This restriction also applies if another enforcement authority has previously made a recovery order for the payments.
- Managing agents must refund ground rent which has been collected in breach of the Act, but they will not be liable for a financial penalty under the provisions of the Act.

### **Enforcement**

27. Enforcement of the Act is the duty of local weights and measures enforcement authorities.

28. Trading Standards services are delivered by officers in these authorities. As a leaseholder, if you think there has been a breach of the Act and you have already discussed this with your landlord, but the issue has not been resolved, you can report the breach to the Citizens Advice Consumer Helpline. The helpline team will pass your report to Trading Standards. Trading Standards officers will then use this information to decide what action is required, and this could include investigating, or issuing a penalty, if require. Citizens Advice may also give a leaseholder individual advice on what to do next.

### **Recovery orders issued by the enforcement authority**

29. If the enforcement authority has sufficient evidence, it may order the repayment of the prohibited rent by:

- The landlord at the time when the prohibited rent was paid
- The landlord at the time when the enforcement authority issues the order; or
- A person acting on behalf of one of the above where the payment was paid to that person.

30. However, an enforcement authority cannot issue such an order where a leaseholder (or person acting on behalf of the leaseholder) has made their own application to the First-tier Tribunal for recovery order under section 13 of the Act.

31. Where a person fails to pay an amount ordered under a recovery order, the enforcement authority may seek to recover it via a County Court order.

### **Leaseholder application for recovery orders from the First-tier Tribunal**

32. The Act allows leaseholders (or person acting on behalf of a leaseholder) under a regulated lease who have paid prohibited rent that has not been refunded to apply to the First-tier Tribunal (Property Chamber) for a recovery order.

33. If a landlord, or the person acting on their behalf, fail to pay all of the recoverable rent by the date given, the outstanding amount may be recovered through the County Court. Trading Standards may be able to provide assistance with that application.

34. An enforcement authority may assist leaseholders with applications to the First-tier Tribunal. A lawyer or Citizens Advice may also be able to support a consumer with their application.

### **Managing agents (acting on a landlord's behalf)**

- Managing agents play an important role in acting on behalf of landlords to demand and collect money from leaseholders, including ground rent charges.
- Managing agents must only collect charges that are legal and also must be prepared to take responsibility where their actions contravene the Act.
- Managing agents must refund incorrectly collected ground rent but they will not be liable for a financial penalty under the provisions of the Act.

- This Act implements strong measures to make sure both landlords and managing agents cannot charge ground rent and must refund it where it is incorrectly charged.
- A recovery order can be issued against the landlord, or the person acting on their behalf who received the prohibited rent payment.

## **Penalties**

35. Where the enforcement authority has sufficient evidence, it may impose a financial penalty on a landlord (not a person acting on their behalf). The amount of the financial penalty that may be issued for a breach of the Act is subject to the discretion of the enforcement authority, within the limits of a minimum of £500 and a maximum of £30,000.

## **Trading Standards assistance for leaseholders**

36. The Act allows Trading Standards to assist leaseholders with applications for a recovery order (where Trading Standards have not already issued one) and an application for a declaration on whether a lease contains a prohibited ground rent term.

37. Trading Standards, **subject to their own discretion**, may conduct proceedings or give advice. Trading Standards may also help a person make an application for a County Court order concerning any unpaid amounts that are already subject to a recovery order (one that the leaseholder or person acting on their behalf has pursued).

## **Costs for leaseholders when taking the landlord to the First-tier Tribunal**

- Each party (leaseholder and landlord) will pay their own costs unless ordered otherwise by the First-tier Tribunal or Court.

## **Leaseholder applications to the tribunal where administration charges are required by a landlord**

- The Act states that no administration charge is payable in relation to the collection of any ground rent that is restricted to a peppercorn rent by this Act. It does this by amending relevant provisions in the Commonhold and Leasehold Reform Act 2002.
- A leaseholder can apply to the First-tier Tribunal (Property Chamber) for a determination as to whether an administration charge is payable or for an order varying the lease.
- A leaseholder may also apply to the First-tier Tribunal (Property Chamber) to request that it makes an order appointing a manager where prohibited administration charges have been made. This will enable the First-tier Tribunal (Property Chamber) to take action where, for example, a landlord includes prohibited administration charges in leases on numerous occasions.

## **Recommendation**

38. The Committee is asked to note the information.

35. Further information can be found at:

<https://www.gov.uk/government/publications/the-leasehold-reform-ground-rent-act-user-guidance/leasehold-reform-ground-rent-act-2022-guidance-for-leaseholders-landlords-and-managing-agents#:~:text=The%20Act%20puts%20an%20end,for%20millions%20of%20future%20leaseholders>

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Contact: David Ellerington, City of Newcastle Council,  
[David.c.ellerington@newcastle.gov.uk](mailto:David.c.ellerington@newcastle.gov.uk)

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**2 March 2023**

**LGA Public Protection Services – A Handbook  
for Councillors**

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

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**Purpose of the report**

To inform the Committee of an online publication that is available for Councillors which provides an overview of council Environmental Health, Trading Standards and Licensing services.

1. Councils are responsible for a huge range of services. While some services such as social care, planning or waste collection have a high profile, others are much less obvious, partly because they are preventative in nature and may only become more visible when something goes wrong.
2. This handbook provides an overview of council environmental health, trading standards and licensing services which collectively fall under the broad theme of public protection services and are part of a spectrum of place-focused protective services ranging from environmental focused services, through public protection, to community safety.
3. The handbook sits alongside related LGA handbooks on different areas of licensing and is intended to assist all councillors in understanding the key functions of these important but complex services and how they can be used to support a wide range of key council priorities.
4. Additionally, it can be used by portfolio holders or other councillors to support understanding of what to look out for in scrutinising and leading these services within your council.
5. Trading standards services – under their formal name of Weights and Measures authorities – have a historic role which can be traced back to Acts of Parliament dealing with weights and measures over several hundred years. The development of modern trading standards services arose in the late 1960s when successive governments recognised the need to protect consumers from trading malpractice. This began with the Trade Descriptions Act, now largely replaced by the Consumer Rights Act, and was fundamental to the development of a comprehensive framework of protection measures around product safety, food and feed standards, package holidays and rogue traders.

**Public protection services in the twenty-first century**

6. Due to their role in enforcing various regulations, environmental health, trading standards and licensing services are often referred to collectively as 'regulatory

services.’ This description is often perceived as a negative, with successive governments framing regulation as something to be cut back in order to reduce red tape and burdens on businesses. However, although regulation is a key part of these services’ toolbox, it is not an end in itself: regulations are ultimately focused on delivering a wide set of objectives that protect local people and research suggests that many voters are supportive of retaining them.

7. Tragically, the Grenfell Fire tragedy stands as a stark warning of the fatal consequences that can occur when there is insufficient regulatory oversight of issues that protect the safety and wellbeing of local communities.
8. Through their work, often although not exclusively with local businesses, public protection services protect different aspects of local life, including:
  - local businesses and the economy.
  - people, in their different roles as local residents, consumers, tenants, employees/workers etc.
  - communities, as places where people live and work, and
  - the environment, including animals.
9. However public protection services are arranged, there is value in them working collaboratively within or across organisations, as joining the dots between different elements of them is key to optimising practise and maximising increasingly scarce resources. It also ensures that the services are best placed to contribute to a range of council priorities.

### **What should councillors be looking for and think about**

10. This overview aims to encourage councillors to take a close interest in public protection services in their council, and how they are contributing to local and national priorities that go beyond the immediate demands of individual pieces of legislation.

### **Recommendation**

11. The Committee is asked to note the information and read the full handbook available here, <https://www.local.gov.uk/publications/public-protection-services-councillor-handbook>

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Contact: Darren Coulton, Sunderland City Council, email  
darren.coulton@sunderland.gov.uk

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**02 March 2023**

**Update on the Successful Funding Bid  
to OPSS, January 2023.**

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

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**Purpose of the report**

To update the Committee on the successful funding bid to the Office for Product Safety and Standards (OPSS) to conduct a safety information activity.

**Background information**

1. In January OPSS announced there was funding available to support public safety information projects relating to product safety or legal metrology. They encouraged bids for funding aimed at the most vulnerable consumers, specifically the digitally excluded and those particularly impacted by the cost-of-living crisis. Funding was for short-term projects that could be completed within this financial year and could have been for either:
  - Reports on the organisation's current activity.
  - Scoping proposals on future activity.
  - Conducting consumer awareness and education activity.After discussions with the 5 Tyne and Wear authorities, the laboratory submitted a scoping proposal.
2. Within the current financial climate there has been an increase in the use of food banks and other community-based groups to collect and distribute products other than food such as toys and small electrical products, possibly without understanding the safety implications of sharing such products.

**Proposed activity**

3. The bid submitted to OPSS was for Trading Standards staff from the 5 local authorities to visit both registered food banks and other community hubs during March 2023 and simply ascertain exactly what goods are being distributed.
4. It is important to note that whilst public safety is always of the highest importance, discussions have taken place internally between the 5 authorities and externally with OPSS to reiterate that this an information gathering activity. Advice from experienced officers may be given but the overall aim is to work with, not against, groups within our communities.
5. Staff will be given a short questionnaire to complete for each site, which will be used for statistical returns to OPSS.
6. Laboratory staff will be available to provide assistance and will also be collating information before submitting the final report back to OPSS.

**Outcomes**

7. At this time, OPSS cannot guarantee further funding, but it is hoped that the scoping project can lead to more in-depth work within the community targeting product safety and those most vulnerable.
8. This project gives TS staff the opportunity to engage with community groups and build strong working relationships. Further work could include product safety talks, consumer advice or information on loan sharks or illicit tobacco.

### **Funding**

9. A maximum of £10,000, inclusive of VAT can be reclaimed.

### **Recommendation**

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

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Contact: David Malone, Gateshead Council, 0191 4784550 or  
[davidmalone@gateshead.gov.uk](mailto:davidmalone@gateshead.gov.uk)

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**2<sup>nd</sup> March 2023**

**Vaping – Call for Change by LGA and ASH**

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

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**Purpose of the report**

To inform the Committee that in early February, the Local Government Association issued a press release calling for changes in the way vapes are packaged and sold in shops. The full release can be read here,  
<https://www.local.gov.uk/about/news/vapes-need-be-out-sight-and-out-reach-tackle-underage-sales-lga>

**Background**

1. As Committee have often said before, vapes need to be ‘out of sight and out of reach’ to tackle underage sales.
2. The Committee have also become concerned over the marketing of vapes with designs and flavours that could appeal to children, in particular those with fruity and bubble gum flavours, and colourful child-friendly packaging, so your views are supported by LGA.
3. LGA are seeking strict new measures to regulate the display and marketing of vaping products in the same way as tobacco to crack down on a rise in stores selling to children.
4. LGA is calling for:
  - Vapes to be in plain packaging and kept out of sight behind the counter.
  - Mandatory age of sale signage on vaping products – it’s currently voluntary.
  - A ban on free samples of vaping products being given out to people of any age.
5. Sanctions should also be in line with those breaching the rules similar to penalties handed out under the tobacco display regulations.
6. In a survey by the Chartered Trading Standards Institute, 60 per cent of local trading standards services said high street shops selling illicit vapes or vaping products to children was the enforcement issue that most concerned them. Teams reported a significant rise in underage vape sales last year.

7. Data from the ASH Smokefree GB Youth survey of 11 to 18-year-olds in England showed that current vaping prevalence was 8.6 per cent in 2022, compared with 4 per cent in 2021.
8. It also found that over a fifth of youngsters bought vaping products from newsagents while 16.3 per cent bought them from a supermarket.

### **Recommendation**

9. The Committee is asked to note the information contained in the report and officers will update once further work has been carried out.

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Contact: Tracey Johnson, Gateshead Council on 0191 4333934 or email [traceyjohnson@gateshead.gov.uk](mailto:traceyjohnson@gateshead.gov.uk)

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