

TYNE AND WEAR TRADING STANDARDS JOINT COMMITTEE AGENDA

Thursday, 16 February 2017 at 10.00 am in the Whickham Room - Civic Centre

From the Acting Chief Executive, Mike Barker

Item	Business
1	Apologies for Absence
2	Minutes (Pages 3 - 8) The Joint Committee is asked to approve as a correct record the minutes of the previous meeting.
3	Revenue Estimates 2017/18 (Pages 9 - 10) Report of the Strategic Director, Corporate Resources
4	Report and Statistical Return for the Quarter Ending December 2016 (Pages 11 - 14) Report of the Strategic Director, Communities and Environment
5	Report of the House of Commons. Environment, Food and Rural Affairs Committee. Animal Welfare in England: Domestic Pets (Pages 15 - 20) Report of the Strategic Director, Communities and Environment.
6	Avian Flu Update (Pages 21 - 24) Report of the Strategic Director, Communities and Environment.
7	Proposal to ban the retail sale of fireworks (Pages 25 - 28) Report of the Strategic Director, Communities and Environment
8	Update on the Safety of Bunk Beds (Pages 29 - 30) Report of the Strategic Director, Communities and Environment
9	Gateshead to Host National Call Centre for Citizens Advice (Pages 31 - 32) Report of the Strategic Director, Communities and Environment

10 | **Report of the National Audit Office: Protecting Consumers from Scams, Unfair Trading and Unsafe Goods** (Pages 33 - 38)

Report of the Strategic Director, Communities and Environment

11 | **Update on the Safety of Nitrous Oxide** (Pages 39 - 42)

Report of Strategic Director, Communities and Environment

12 | **United Kingdom Accreditation Service Audit 2017** (Pages 43 - 44)

Report of the Strategic Director, Communities and Environment

GATESHEAD METROPOLITAN BOROUGH COUNCIL

TYNE AND WEAR TRADING STANDARDS JOINT COMMITTEE MEETING

Thursday, 24 November 2016

PRESENT: Councillor K Dodds (Chair)

Councillors: Councillor J Fletcher, M Foy,
Councillor Nick Kemp, Councillor S Lambert,
Councillor M Lawson, Councillor D Huddart,
Councillor S Graham, Councillor J O'Shea,
Councillor A West, Councillor J Perry,
Councillor J Blackburn and Councillor A Wilson

APOLOGIES: Councillors T Graham, D Duggan, Councillor A Ellison and
Councillor M Mordey

TW19 MINUTES

RESOLVED - That the minutes of the meeting held on Thursday 22
September be agreed as a correct record.

**TW20 REPORT AND STATISTICAL RETURN FOR THE QUARTER ENDING
SEPTEMBER 2016**

The Committee received an update report on the current work of the Metrology
Laboratory and the statistical return for the Quarter ending September 2016.

The laboratory continues to support the officers of the 5 Tyne and Wear Local
Authorities. Northumberland have now been added to the Gateshead Verifications
process and Gateshead are doing the stamps until the Northumberland officers are
fully trained.

The laboratory has been working with Hartlepool Council, testing Halloween
Costumes and swimming aids. The laboratory manager did a piece from Crime-
watch on a case where illicit cigarettes had been the cause of a fire in Lincolnshire.

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

TW21 NATIONAL CONSUMER WEEK

A report was presented to the Committee to provide an update on the theme for
National Consumer Week. This year's consumer week theme is 'Switched On' and
is about getting consumers switched on to their statutory rights and product safety

when buying electrical goods. The annual campaign is a little later this year to take in the two pre-Christmas sprees – Black Friday and Cyber Monday.

Trading standards information data bases have identified a large number of problems with electrical goods. This sector was found to be one of the most complained about sectors by consumers.

Both consumers and retailers are not always clear on who is responsible for providing redress, with retailers incorrectly referring consumers to manufacturers, and the incorrect remedy being offered.

The government has announced new measure to tackle the recent serious problems with white goods, in particular fires caused by faulty tumble dryers. They are bringing together experts to examine how to prevent these incidents but also better ways of dealing with problems when they occur.

Various events to support National Consumer Week will be taking place throughout Tyne and Wear. The Tyne and Wear Laboratory is arranging to work with the constituent authorities in testing appliances and promoting rights of consumers who have purchased faulty goods. Pocket brochures are being distributed to local businesses. The brochures aim to make businesses aware of their legal obligations in relation to electrical safety. Newcastle Trading Standards are working with partner organisations, Citizen Advice Bureau and Tyne and Wear Fire and Rescue Service, to discuss all related electrical safety issues with consumers.

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

TW22 UPDATE ON THE INVOLVEMENT OF TRADING STANDARDS WITH ENVIRONMENTAL ISSUES

The Committee received a report to update them on two proposals to bring in new legislative controls which aim to control two areas of concern.

Microbeads in cosmetics and personal care products, microbeads are round particles of plastic used in cosmetic products as mild exfoliants to help remove dry cells from the surface of the skin or as mild abrasives to help polish the teeth. Microbeads are most likely to be found in soaps, facial scrubs, exfoliating body washes and toothpastes.

It is reported that tens of trillions of microbeads are thought to have been washed down bathroom plugholes into the oceans, harming the health of wildlife and possibly humans. Toxic pollutants like pesticides bind to microbeads and they end up being consumed by shellfish and plankton before heading up the food chain.

The beads are flushed into rivers and seas by the trillion, causing havoc to marine life and can make their way into the human food chain. MPs have warned that a single shower can release 100,000 microbeads into the ocean, and called for them to be banned from bathroom products.

A consultation will launch with the intention to ban the sale and manufacture of cosmetics and personal care products containing microbeads that harm the marine environment.

Twenty-five UK cosmetics and toiletries companies, such as Unilever, have already taken steps to voluntarily phase out microbeads from their products. Waitrose have announced they will stop stocking such products by the end of September.

UK Water companies have written to the Chartered Trading Standards Institute in respect of alleged misleading packaging of wet wipes and other sanitary products that claim they are 'flushable'.

Water UK, have said the so-called 'flushable' products cause misery to millions of people around the world by blocking sewers and contributing to floods in their homes and wider environment. A global statement has now been signed by over 247 companies in over 18 countries outlining the water industry's current position regarding flushable labelled products. The international statement recommends that consumers must be given clear and unambiguous information about appropriate disposal methods of products.

In the UK alone, water companies estimate it costs £88 million a year to unblock sewers, and more than half of blockages are exacerbated by wipes and hygiene products. This does not include the human and environmental impact and cost.

It was suggested that as Local Authorities we should be asking our procurement teams to check specifications in terms of the products which are being purchased.

RESOLVED - That the information in the report be noted.

TW23 UPDATE ON THE REVIEW ON PRODUCT SAFETY RECALLS

An update report was submitted to the Committee following a report which was previously submitted to the June Committee. The report was provided to update the Committee on the latest developments regarding the issue of product safety recalls.

In March 2015 the Coalition Government announced that Broadcaster and leading consumer campaigner Lynn Faulds Wood would lead a review of the UK's system for the recall of unsafe products.

The then Government recognised that the UK has robust legislation covering product safety, however, recalls are often complex and it can be difficult to trace the customer – for example they may not have provided contact details when the product was purchased or moved house.

Recent YouGov research showed that just over a third of consumers currently register their appliances.

As part of the review an industry led steering group to take forward the recommendations and oversee progress of the actions. The Coalition Government

also committed to support a comprehensive review of guidance for business and enforcers.

It is hoped that this will make things easier in the future.

RESOLVED - That the information in the report be noted.

TW24 UPDATE ON THE SAFETY OF CHILDREN'S HALLOWEEN COSTUMES

A report was submitted to update the Committee on the latest developments with regards to the issue of product safety related to children's Halloween costumes. A previous report was presented to the Committee in November 2015.

Members were reminded of 31 October 2014 when the eight year old daughter of Claudia Winkleman was rushed to hospital after her Halloween costume caught fire.

In May 2015 the BBC aired a 'Watchdog' programme highlighting the tragedy of Claudia Winkleman and her daughter and Ms Winkleman spoke for the first time about the tragic incident in 2014 where her daughter's fancy dress costume went up in flames, leaving her badly burnt. The programme investigated what makes fires of this kind so devastating and then called for the rules on safety testing to be changed.

Business Minister Anna Soubry commissioned a sampling programme on the safety of Halloween costumes in October 2015 and which was co-ordinated on behalf of BEIS and the region by Newcastle City Council.

The report was published in February 2016, the technical manager for the Test House made the following comments on the collated results:

- Of the 309 samples received, 248 disguises passed the flammability tests of EN71-2 applied by the Test House, a pass rate of 80%.
- However, of those that did not pass the test, 14 costumes had a result that was too close to the prescribed limit so that the uncertainty of measurement meant that the Test House was unable to draw firm conclusions from the analysis and these were recorded as neither pass nor fail.
- A total of 47 costumes were recorded as failing to comply with EN71-2, either as a result of the absence of suitable warning, or owing to the rate of spread of fire. 10 of the failures were due to the absence of warning, and 37 were due to rate of spread. These are differentiated between those as technical and unacceptable failures respectively.

Based on the comments of the Test House it would appear that compliance could be greatly improved through better checks on the manufacturing processes to ensure that net material is orientated correctly to ensure minimal rate of spread of flame.

The report was presented by a Trading Standards Officer and a BEIS official at the European Union Toy Safety Committee held in Brussels in May 2016.

The British Standards Institute has held several joint meetings with experts on both

the safety of toys and textiles to discuss all the issues. An expert panel has now been formed to take forward all the issues around the testing of dressing up costumes which will engage with European safety colleagues on the potential revision of the relevant toy safety standard.

Earlier this year the British Retail Consortium (BRC) announced its own Code of Practice, which goes beyond the current safety tests for toys and exceeds the safety tests on nightwear.

This test is voluntary but lots of retailers have signed up to it and now test their costumes to this standard. Nightwear must not burn quicker than 12mm per second. The BRC test states costumes must not burn quicker than 10mm per second.

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

TW25 REPORT ON ACTIVITY AROUND FIREWORKS IN 2016

A report was presented to inform the Committee of the activities of Trading Standards Services of the five constituent authorities related to fireworks in the period preceding the 5 November 2016.

The enforcement partners involved with the various legislative provisions related to fireworks include Northumbria Police, Tyne and Wear Fire and Rescue Service and Environmental Health Services. Due to the already well organised structure in which all of the partners operate, it is relatively easy for the partner enforcement organisations to work closely together around the enforcement of the firework related legislation.

Across Tyne and Wear business owners have been reminded of their obligations in respect of the law relating to the sale of fireworks and guidance materials have been issued to support businesses. Officers have also examined stocks of fireworks in retail premises to ensure compliance with relevant standards.

A number of authorities have been involved in the wider 'darker nights campaign' arranged through the local Crime and Disorder Reduction Partnerships. Retailers have been visited across the five authorities and 6 test purchases were carried out with no sales being made.

It does seem apparent that in recent years there has been a reduction in the numbers of premises registering with the Tyne and Wear Fire and Rescue Service to sell fireworks.

Incidents and alleged incidents of sales of fireworks to those under 18 have decreased significantly over recent years. It is encouraging that retailers across Tyne and Wear are abiding by the restrictions around selling fireworks to those under 18 with all premises subject to test purchase exercises refusing to sell. Whilst this is all positive news, officers will ensure that in conducting future operations the work that is conducted with the support of members, will continue to ensure that

retailers do not become complacent in respect of the overall safety of fireworks.

Officers would also reinforce the message that individuals who set themselves up on our residential estates to sell a range of illegal products, including fireworks, alcohol and cigarettes and often to those underage should not be tolerated by their neighbours and as a result their activities should be reported to the enforcement authorities so that action can be taken against them to stop their activities.

The Committee requested that officers look into the feasibility of doing a blanket ban in Tyne and Wear and bring a report back to the next Committee.

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

TW26 DATE AND TIME OF NEXT MEETING

The Date and Time of the Next Meeting is Thursday 16 February 2017 at 10am.

Chair.....



Report to the Tyne and Wear Trading Standards Joint Committee

16 February 2017

Revenue Estimates 2017/18

Darren Collins, Strategic Director, Corporate Resources, Gateshead Council

Purpose of Report

1. This report considers the budget estimates for 2017/18 as set out in Appendix 1.

Background

2. The proposed budget for 2017/18 is set out in Appendix 1. For reference, the projected outturn for 2016/17 has also been included.
3. The salary estimate includes a pay increase of 1%. It has also been assumed that current increased income levels will be maintained.
4. Contributions from the member authorities have been maintained at the same level. Although a reserve in excess of £111,000 has now built up, it is proposed that a business plan should be drawn up spanning the next three years, with proposals for an optimum staffing structure, likely income, equipment and transport requirements, along with an indication of what will be needed from the reserves. It will then be possible to review contributions in the light of this.

Recommendation

5. It is recommended that the following is approved by the Committee:
 - The latest estimate of £340,869, as set out in Appendix 1
 - The preparation of an outline Business Plan for discussion at the June Meeting of the Joint Committee, to be finalised in time for the October Joint Committee, forming the basis of future budgets.

Contact: Jeremy Craxford ext. 2727

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Budget Statement 2017-18

	Budget 2016/17	Expected Outturn 2016/17	Budget 2017/18	Notes
	£	£	£	
Income				
Fees & Charges	-67,649	-113,000	-113,000	Budgets increased to reflect higher levels of Activity
S. 11 Stamping Fees	-2,912	-9,000	-9,000	
Levy on Constituent Authorities	-219,151	-218,869	-218,869	Detail Below
Total Income	-289,712	-340,869	-340,869	
Expenditure				
EMPLOYEES				
Direct Pay		188,156	215,986	1 x Senior Officer (K), 2 x Technical Officers (H), 2 x Technician/ Callibrator (E), 1 x Clerical Assistant (B/C)
Indirect Pay		2,037	1,142	
	202,268	190,193	217,128	
PREMISES				
Repairs & Maintenance		9,345	7,400	
Utilities		11,364	10,870	
Rates		8,349	8,400	
Rent		4,966	4,160	
	40,609	34,025	30,830	
TRANSPORT				
Car Allowances		361	400	
Vehicle Running Costs		851	940	
	2,303	1,212	1,340	
SUPPLIES & SERVICES				
Furniture & Equipment		5,896	7,000	
NMRO Fees		4,240	4,300	
Telephones		1,139	1,240	
Printing & Stationery		2,912	2,340	
Insurance		6,989	7,120	
Postage		754	800	
Miscellaneous		3,684	3,200	
	28,591	25,614	26,000	
CENTRAL ADMIN				
Met Lab Central Admin		31,344	35,510	D&E Recharge £14,990, Finance & ICT £14,580, HR £3,030, Chief Exec £2,910
	12,166	31,344	35,510	
JOINT COMMITTEE EXPENSES				
Conference Expenses	3,519	0	0	
Central Admin	256	2,354	2,268	
Audit Fee		3,793	3,793	
	3,775	6,147	6,061	
Total Revenue Expenditure	289,712	288,534	316,869	
Capital Expenditure		38,609	24,000	
NET COST	0	-13,726	0	
Levy on Constituent Authorities				
Gateshead Contributions		-39,663		
Sunderland		-54,579		
LACB Newcastle		-55,504		
LACB South Tyneside		-29,344		
LACB North Tyneside		-39,779		
		-218,869		

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

16 February 2017

**Statistical Return for Quarter ending December
2016**

**Paul Dowling, Strategic Director, Communities and Environment, Gateshead
Council**

Purpose of the report

To inform the Committee of the work of the Joint Metrology Laboratory for the quarter ending December 2016.

Metrology Laboratory

Operational

1. The laboratory continues to support the five authorities of the Tyne and Wear region offering specialist services, equipment and personnel and conducting petrol verifications.
2. Training in metrology for trading standards candidates to sit the professional examinations at National Measurement Regulatory Office.

Aid and Advice to Industry

3. Local weighing machine repairers, chemical, pharmaceutical and aeronautical companies continue to submit their test weights, scales and length measures for calibration and equipment hired.
4. The laboratory has been asked by industry to supply new weights and this has been facilitated.
5. Safe loading and preventing overloaded vehicles advice was given to the fleet manager for a regional hygiene company who wished to ensure that their drivers did not present a risk to other road users.

EC Verifications

6. During this period, the laboratory has undertaken EC Verifications for a beer glass manufacturer, several weighbridges for weighing vehicles and heavy machines up to 3 tonnes to weigh industrial products and a fresh fish supplier who had many machines for packing fish for the retail and wholesale sectors.

UKAS Calibrations

7. Weights continue to be submitted for calibration and issue of UKAS Calibration certificates.

Toy Safety

8. Again only a few samples were submitted by the authorities and they were found to be compliant with legislation.

Electrical Safety

9. Samples have been submitted by Redcar & Cleveland, Durham, Hartlepool as well as Tyne & Wear authorities. Samples have ranged from phone chargers to deep fat fryers. There has been a high failure rate.

.Cigarette Samples

10. Samples of cigarettes were submitted to the laboratory for reduced ignition propensity testing and were found to be non-compliant with legislation, reports and section 9 witness statements were prepared for many authorities outside the Tyne & Wear region.

Training

11. The laboratory ran the Chartered Trading Standards Institute's practical and oral examination in October and there were candidates from around the UK present.

Statistical Return

12. The statistical return for the period October to December 2016 is contained within Appendix 1.

Recommendation

13. The Committee is asked to note the report and statistical information.

APPENDIX 1

STATISTICAL RETURN FOR THE QUARTER ENDING Dec. 2016

Activity	Number	Income (£)
S.74 (4) (b) verifications S73107	54	522.80
UKAS Accredited calibrations S73074-01	680	14,167.12
Toy / Electrical tests S74014	49	1,785.00
Weighbridge S73104-01	234	1,014.17
Hire of weights S73104	10	450.00
Transport for hire weights		653.00
PAT testing S76034-01	3	201.75
Additional Income S74014	EC Verification	212.00
	TSI Training	2,000.00
RIP testing S73104	64	12,800.00
Income (excl. VAT)		32,779.00
V.A.T		6,555.80
Total Income (inc VAT)		39,334.80

Contact: Andrew Hayward, Gateshead Council on 0191 4784550 or e.mail andrewhayward@gateshead.gov.uk

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

16 February 2017

**Report of the House of Commons.
Environment, Food and Rural Affairs
Committee. Animal Welfare in England:
Domestic Pets**

**Paul Dowling, Strategic Director, Communities and Environment, Gateshead
Council**

Purpose of the report

To update the Committee on the report by the House of Commons, Environment, Food and Rural Affairs Committee of the review of Animal Welfare in England: Domestic Pets.

Summary

1. The UK is recognised as a nation of pet lovers. Approximately one in two households owns a pet amounting to around 21 million pets in all (excluding fish), including 8.5 million dogs and 7.5 million cats. The Animal Welfare Act 2006 provides for the welfare of all kept animals. In addition, a number of older pieces of legislation regulate particular animal activities, including breeding and sale. The report focused on dogs, cats and horses.
2. The Committee found that there are many flaws in the legislation, from licensing through enforcement and to sale, which lead to inadequate protection of animals. They have focused on the need for transparency, traceability and enforcement through the supply chain.

Key recommendations

3. Recommendations focus on the need for transparency, traceability and enforcement. There are many good, responsible breeders of dogs and cats in the UK. However, there are also a large number who think more of the financial rewards than the health and welfare of the animals they breed. In particular, the dog breeding industry can be extremely lucrative: it is easy for an unknowing member of the public to buy a puppy from unlicensed or illegal sellers. The process must be licensed and regulated, making the industry more transparent and ensuring that animals can be traced back to their breeders.
4. There is a need to improve enforcement of the licensing regime. The inquiry has highlighted the differing priority that is given to animal welfare across local government in England, and variation in the training and experience of licensing inspectors. The Committee believes that establishing a separate licensing body will provide the professional level of expertise that is needed for such a difficult role.

5. The Animal Welfare Act 2006 was an important step in animal welfare. However, not enough has been done since to make the Act as effective as it could. The Committee takes the view that it is unacceptable that no state organisation has statutory responsibility for enforcement of the Animal Welfare Act. The Committee believes that local government needs to be responsible for the enforcement of the Animal Welfare Act.

Secondary Legislation

6. The Animal Welfare Act 2006 has the potential to significantly improve levels of animal welfare. However, the effectiveness of the Act has been undermined by the lack of secondary legislation. Recommend that the Government set out a timetable for the secondary legislation that was foreseen ten years ago in the Animal Welfare Act 2006.

Progeny of dogs

7. The Committee recommends that the Government pass regulations to protect the genetic viability and welfare of offspring as well as adult dogs.

Awareness of the Act

8. The Committee recommends that the Government develop an ongoing partnership with animal welfare charities to educate the public in England about the Animal Welfare Act 2006.
9. The Committee recommends that the Government examine how animal welfare can be incorporated into citizenship classes as part of the school curriculum.

Breeding of dogs

10. The puppy market is extremely profitable. However, much of it works in the dark, with unlicensed breeders able to dominate the market. Transparency is vital, ensuring that appropriate welfare standards are in place. The current threshold at which breeders need to be licensed, which is set at five litters per year, could equate to some 40 to 50 dogs being produced by each breeder each year. The Committee considers that this threshold is too high. The Committee recommends that anyone breeding two litters or more per year should be licensed as a breeder.
11. The Committee further recommends that those falling below the threshold of a licensed breeder should be registered with their Local Authority.
12. Breeders have an important responsibility to provide for the social development and broader welfare requirements for puppies in their care. We recommend that the legislation governing the breeding of dogs should be updated with a licensing regime based on modern welfare standards.
13. The Committee takes the view that current enforcement of the licensing regime is unsatisfactory. Further the Committee recognises that some local authorities have developed expertise in animal welfare, but believes that the overwhelming majority of English local authorities lack suitably qualified inspectors. The Committee believes that a national inspectorate, which local authorities could

call upon, would enable expertise to develop and bring a consistency to the licensing process.

14. The Committee recommends that a national inspectorate should be established to liaise and support local authorities in enforcing the licensing regime, undertaking inspections and dealing with complaints.
15. The Committee believes that UKAS accreditation is a good thing, and it encourages its pursuit on its own merits. However, Committee does not believe that it is a substitution for local authorities' inspection. Therefore the Committee does not support the Government's proposal to establish a complete local authority licensing exemption for businesses accredited by the United Kingdom Accreditation Service.
16. The Pet Travel Scheme (PETS) is providing a vehicle for the illegal importation of puppies. The Government must ensure that negotiations regarding our future relationship with Europe include this issue. The age at which dogs are allowed to enter the United Kingdom under PETS should be increased to six months, thereby reducing their commercial value to smugglers.
17. The Committee recommends that the Government increase spot checks at entry points into the United Kingdom to enforce the rules on non-commercial trade on domestic animals. Also recommend increased working between government agencies and charities to understand how the puppy smuggling trade works and how to reduce it effectively.

Sale of dogs

18. Responsible breeders would never sell through a pet shop licence holder. The process of selling through a third party seller has an unavoidable negative impact upon the welfare of puppies. It also distances the purchaser from the environment in which their puppy was bred. Banning third party sales so that the public bought directly from breeders would bring public scrutiny to bear on breeders, thereby improving the welfare conditions of puppies. It would also bring a positive financial impact to breeders, allowing them to retain money that is currently lost in the supply chain. The Committee acknowledges that difficulties of public access, due to a rural location, security issues and diseases, may be challenging for some breeders. On balance, however, the Committee considers it is more important that animal welfare standards are ensured across all breeders.
19. The Committee recommends that the Government ban third party sales of dogs. Dogs should only be available from licensed, regulated breeders or approved rehoming organisations.
20. Puppies should not be bought online. Potential owners should see the young animals with their mothers and make sure they are at least eight weeks old. However we recognise that in the digital age, people will continue to use the internet to advertise, and legislation must be developed to provide effective regulation of that trade.
21. The Committee recommends that minimum standards should be made mandatory for all websites where pets are advertised and sold.

22. The Committee recommends that legislation should state specifically that those advertising the sale of animals on the internet should have a licence. It is essential that legislation remains relevant and effective in the digital age.
23. The Committee recommends that the Government make it compulsory that all internet advertisements should include the registration or licence number of the seller. Also recommend that the Government look at the new regime in France where the seller's tax code is included on the advertisement, to see whether such a regime could be put in place in the United Kingdom.
24. The Committee recommends that Defra establish a publicly accessible list of registered and licensed breeders and sellers.

Central reporting system

25. The Committee recommends that Defra work with local authorities to investigate the possibility of creating a central reporting system for complaints relating to the breeding and sale of pets.

Breeding of cats

26. Although the dog market is more lucrative, the Committee does not consider this a reason to do less to protect the welfare of cats. Although it is recognised that responsible breeders prioritise welfare conditions, many cats are bred in poor welfare conditions. The Committee recommends that breeders of cats of two litters or more should be licensed, with welfare conditions attached.

Sale of cats

27. The Committee recommends that the Government undertakes further research on the sale of cats and proposes recommendations to improve the trade.

Equine identification and traceability

28. The equine identification system needs to be made much simpler with higher standards. The Committee recommends that the Government systematically and significantly reduces the number of Passport Issuing Organisations, examining the possibility of establishing a single Passport Issuing Organisation.
29. Since the closure of the National Equine Database in 2012, it has been impossible to enforce the equine identification system. We are disappointed that the UK Government did not meet the EU's deadline of 1 July 2016 for creating a new database. The Committee expects that the Minister should respond to it to confirm that the database is working by 1 January 2017.

Formal investigatory and enforcement powers—local government and police

30. A major weakness of the Animal Welfare Act is that no state organisation is statutorily responsible for animal welfare. The Committee takes the view that it is unacceptable that in a modern society no state organisation is responsible for animal welfare.

31. The Committee recommends that the Government place a statutory duty on local authorities to enforce the Animal Welfare Act 2006. The Government must ensure that appropriate resources are made available to local authorities to support them in this extension of their statutory duties.

Role of the RSPCA

32. The RSPCA has an invaluable role in investigating allegations of animal mistreatment. The Committee recognises that the organisation fulfils a role in animal welfare not currently performed by local government. However, recent criticism has led to its reputation being diminished in the eyes of the public. The Committee welcomes the organisation's acknowledgment that it needs to be more transparent and accountable.

33. The RSPCA must ensure that its new complaints procedure is better publicised, including the external reviewer aspect, and made clear for members of the public.

34. The Wooler Report recognised that the RSPCA needed to make changes in terms of accountability and transparency before receiving statutory authority. We are surprised that some of these changes are only being put in place two years after the publication of the Report. At this time, Committee does not recommend that the RSPCA is given statutory status. The Committee recommends that the RSPCA swiftly, and fully, implements all recommendations of the Wooler review.

35. The Committee does not believe that the current model in England and Wales where the RSPCA brings private prosecutions alongside its investigative, campaigning and fundraising functions provides the necessary separation to ensure that there is no conflict of interest.

36. The Committee recommends that the RSPCA should continue its important work investigating animal welfare cases and working closely with the police and statutory authorities. It should, however, withdraw from acting as a prosecutor of first resort where there are statutory bodies with a duty to carry out this role. The Committee is not convinced by its arguments that it is in a better position than the CPS to prosecute animal welfare cases.

37. However, the Committee notes that the CPS would need to be suitably resourced and trained in the area of animal welfare to take on what will be an increased work load.

38. The Committee recommends that the Government look at amending current legislation to make the RSPCA a Specialist Reporting Authority.

39. The Committee believes that the RSPCA should retain the ability to bring private prosecutions where it reasonably believes that there is no statutory alternative and where such a prosecution would further its charitable objectives.

Sentencing

40. The current penalties for animal welfare offences in England are amongst the lowest in Europe. We recommend that the maximum penalty is increased to five

years. We recommend that Defra should start discussions with the Ministry of Justice by the end of the year to achieve this.

Animal Abusers Register

41. It is very difficult to track those who have been banned from keeping animals. An accessible register could play an important role in protecting animals, and prevent abusers from accessing animals.

42. The Committee recommends that the Government examines the potential for the establishment of an animal abuse register of those convicted of animal cruelty offences and who have been disqualified from keeping animals.

Recommendation

43. The Committee is asked to note the information.

Contact: Richard Reading, Sunderland City Council on 0191 5611710 or email richard.reading@sunderland.gov.uk

Report to the Tyne and Wear Trading Standards Joint Committee

16 February 2017

Avian Flu Update

Paul Dowling, Strategic Director, Communities and Environment, Gateshead Council

Purpose of the report

To inform the Committee of the latest developments with the current outbreak on avian flu.

About avian influenza

1. Avian influenza (bird flu) mainly affects birds. It can also affect humans and other mammals. Some strains of avian influenza cause a notifiable disease. If businesses suspect any strain of avian flu they are duty bound to inform their nearest Animal Plant and Health Agency at Defra. Failure to do so is an offence.
2. Keepers of poultry are advised to keep a close watch on their birds for signs of disease, and maintain high levels of biosecurity at all times. If they have any concerns about the health of your poultry, keepers are advised to seek prompt advice from their vet.
3. If people are keeping flocks of 50 or more birds they must register their flocks with Defra.

How to spot avian influenza

4. Highly pathogenic avian influenza (HPAI) is the more serious type. It is often fatal in birds. The main clinical signs of HPAI in birds are:
 - swollen head
 - blue discolouration of neck and throat
 - loss of appetite
 - respiratory distress such as gaping beak, coughing, sneezing, gurgling, rattling
 - diarrhoea
 - fewer eggs laid
 - increased mortality
5. Clinical signs can vary between species of bird and some species may show minimal clinical signs (ducks and geese).
6. Low pathogenic avian influenza (LPAI) is usually less serious. It can cause mild breathing problems, but affected birds will not always show clear signs of infection.

7. The severity of LPAI depends on the type of bird and whether it has any other illnesses.
8. Anyone who keeps poultry must keep a close watch on them for any signs of disease, and must seek prompt advice from their vet if they have any concerns.

How avian influenza is spread

9. The disease spreads from bird to bird by direct contact or through contaminated body fluids and faeces.
10. The avian influenza virus changes frequently, creating new strains, and there is a constant risk that one of the new strains may spread easily among people. But there is no evidence that any recent strain of avian influenza has been able to spread directly between people.
11. Avian influenza isn't an airborne disease.

The Response from Government

12. On 4 January 2017 Government announced that the Prevention Zones in place across the whole of Great Britain will remain in place until 28 February 2017. Keepers of poultry and captive birds must "house" them away from wild birds. They must maintain their biosecurity and keep a close watch on the health of their birds.
13. An Avian Influenza Prevention Zone declaration was made by Defra on 6 January 2017. Declarations have also been made in Scotland, Wales and Northern Ireland
14. The zones require the immediate and compulsory housing of domestic chickens, hens, turkeys and ducks, or where this is not practical, their complete separation from contact with wild birds. For farmed geese, gamebirds and other captive birds, keepers should take practical steps to keep these birds separate from wild birds.
15. The Prevention Zones help reduce the risk of poultry coming into contact with wild birds which that could carry the virus, or with their droppings. They also reduce the potential for any food or water that poultry use to become contaminated by wild birds. Even when birds are housed there is still a risk of infection, which is why there is an ongoing need for good biosecurity.
16. All bird keepers must now take extra biosecurity steps, including:
 - minimising direct and indirect contact between poultry and wild birds
 - making sure that feed and water can't be accessed by wild birds
 - taking all reasonable precautions to avoid the transfer of contamination between premises, including cleansing and disinfection of equipment, vehicles and footwear
 - reducing the movement of people, vehicles or equipment to and from areas where poultry or captive birds are kept
 - implementing effective vermin control programmes around buildings where poultry or captive birds are kept
 - thoroughly cleansing and disinfecting housing and equipment at the end of a production cycle
 - keeping Defra approved disinfectant at the right concentration at key points such as farm entrances and entrances to bird houses

Backyard flocks

17. All poultry and captive birds, including backyard flocks, must be housed or, where it is not practicable to do so, kept separate from wild birds, to comply with the legal requirements of the Prevention Zones.

Pigeons or birds of prey

18. Pigeons or birds of prey, but keepers should try to prevent them from making direct contact with (or catching) wildfowl and to keep a close watch on the health of their birds.

Case near Settle in North Yorkshire

19. On 6 January 2017, a case of avian influenza H5N8 was confirmed in a small backyard flock of chickens and ducks on a premises near Settle in North Yorkshire. A 3 km Protection Zone and 10 km Surveillance Zone are in place around the premises, and specific restrictions apply.

Case in Lincolnshire

20. On 16 December 2016 Defra confirmed a case of avian influenza H5N8 in turkeys on a poultry farm near Louth, East Lindsey in Lincolnshire. A 3km Protection Zone and a 10km Surveillance Zone were put in place around the premises. Within these zones a range of controls were in place to prevent the spread of disease.

21. The humane culling of all birds at the farm was completed on 17 December 2016 and preliminary cleansing and disinfecting was completed on 19 December 2016. As there have been no more confirmed cases in the zones since cleansing and disinfecting took place, the PZ was lifted from 00:01 hrs on 9 January 2017. Although PZ restrictions are no longer in place, SZ restrictions continue to apply to both the SZ and the former PZ.

Enforcement

22. Avian influenza controls are enforced by designated officers in Environmental Health and/or Trading Standards services.

Advice for the public

23. Some strains of avian influenza can pass to humans, but this is very rare. It usually requires very close contact between the human and infected birds. Based on what is known about the H5N8 strain, the risk to public health is considered very low. There have never been any recorded cases of H5N8 in humans.

24. The Food Standards Agency advise that bird flu does not pose a food safety risk for UK consumers. Properly cooked poultry and poultry products, including eggs, are safe to eat.

Wild birds

25. If the public find 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).

Recommendations

26. The Committee is asked to note the information as contained within this report.

Report to the Tyne and Wear Trading Standards Joint Committee

16 February 2017

Proposal to ban the retail sale of fireworks

Paul Dowling, Strategic Director, Communities and Environment, Gateshead Council

Purpose of the report

In response to the request made by Councillor Nick Kemp Cabinet Member for Neighbourhood and Regulatory Services from Newcastle City Council; the following report outlines a range of options in order to progress the possibility of introducing a ban on the retail sale of fireworks.

The Background

1. Councillor Kemp's view is that on behalf of himself and his colleagues and the residents they are elected to represent, he expresses a great deal of disappointment, with the negative response received from the Petitions Committee and the Government to the 147,702 individuals who signed the recent petition which requested that Government look towards banning the retail sale of fireworks.
2. Councillor Kemp's view is that every year we continue to see individuals using fireworks irresponsibly and the consequence of this is that often damage to property, harm to animals or at its worst life changing and life threatening injuries to people. In Newcastle during the lead up to the 5 November 2016, three vehicles were destroyed after been lit by a firework.

The Current Legislative position with Fireworks

3. **The Pyrotechnic Articles (Safety) Regulations 2015:** Sets out the various safety provisions around the categories of fireworks and the obligations placed on manufacturers, importers and distributors. The Regulations also details the prohibition relating to the supply of fireworks to those under the age of 18.
4. **The Explosives Regulations 2014:** Makes it a requirement that anyone wishing to keep fireworks shall register their name with the Tyne and Wear Fire and Rescue Service. The annual registration is on payment of a statutory fee. Officers visit premises seeking registration to ensure full compliance with the strict requirements around storage of fireworks.
5. **The Fireworks Regulations 2004:** Various provisions of the Fireworks Regulations are enforced by Trading Standards Officers, Police Officers and Environmental Health Officers:
 - Police Officers: Enforce the provisions that prohibit any person under 18 possessing an adult firework (excluding 'throw-downs') in a public place.

- Environmental Health Officers: Enforce the provisions that prohibit the use of fireworks during a period beginning at 11pm and ending at 7am fireworks nights” including the 5 November and Chinese New Year
- Trading Standards Officers: Enforce the provisions that relate to the display of statutory notices, when retailers supply fireworks.

The Government’s view on the Sale of Fireworks 2016

6. The understanding is that Government has always taken the general view that the sale of fireworks to ordinary consumers, is better controlled and licensed. The general view is that this licensing regime permits and regulates the market and that if fireworks were banned; there would be a strong and distinct possibility that individuals will experiment with garden chemicals and the like, with potential disastrous effects to themselves and others when these experiments go wrong.

Petition Ban the sale of fireworks to the public and only approve organised displays. (November 2016)

Every year 1000's of people are hurt, burnt, maimed and even lose their lives through accidents involving fireworks. Every year people are terrorised by the misuse of fireworks. Every year animals are hurt and traumatised by fireworks. Ban them please. **147,702 signatures** Parliament considers all petitions that get more than 100,000 signatures for a debate.

Government responded

7. *The government recognises the concerns raised about the use of fireworks by the public, particularly the potential distress caused by the use of noisy fireworks to pets, livestock and the public, and injuries caused by accidents and the misuse of fireworks.*
8. *Many individuals enjoy being able to hold private fireworks displays at home, and have a sensible and responsible attitude to their use. Indeed, the majority of the public who use fireworks do so in a safe and considerate way; it is only an anti-social minority that uses them dangerously and inconsiderately.*
 - *While members of the public can hold private firework displays at any time of the year, they are subject to strict curfews which prevent fireworks being used after 11pm, except on a limited number of specific nights of the year around the traditional celebrations of 5th November, New Year, Chinese New Year and Diwali when they can be used up to midnight (5th November) or 1am (New Year, Chinese New Year and Diwali).*

Options for Change

9. Without direct Government intervention, local intervention could take a number of forms. These would include.
10. A voluntary ban requesting on behalf of the five local authorities under the auspices of the Joint Committee that the various retailers would refrain from selling fireworks to the ordinary consumer. The main difficulty would be the strong possibility that the main retailers licensed to sell fireworks, would be very unlikely to accept their social responsibility and agree to refrain from selling fireworks. They would probably cite their responsible retailing of a legitimate

product. They would also argue that any potential ban would be a potential conflict with their ability to be competitive and a potential restraint on trade in the region.

11. A compulsory ban that the various retailers would stop selling fireworks to the ordinary consumer. This ban could be actioned through a local byelaw either taken through a devolved power received from Government under any future devolved agreement. The main difficulty would be the strong possibility that the main retailers licensed to sell fireworks would be very unlikely to accept their social responsibility and agree to refrain from selling fireworks. Affected retailers would probably cite their responsible retailing of a legitimate product. They would also argue that any ban would be a potential conflict with their ability to be competitive and a potential restraint on trade in the region. Based on the primacy of large national retailers in the retail sale of fireworks, resistance, potentially through the engagement of the judicial process may indeed be significant.
12. Individual action taken by the Tyne and Wear Fire and Rescue service. Where evidence emerged that a particular retailer was not prepared to fully comply with the legislative requirements on storage or similar, the Fire service may be in a position to refuse to licence a problematic retailer.
13. Individual action taken by a local authority under the provisions of the Anti-social Behaviour, Crime and Policing Act 2014 in respect of the use of community protection notices (CPN). CPN's are intended to deal with particular, ongoing problems or nuisances which negatively affect the community's quality of life by targeting those responsible.
14. In many areas, councils already take the lead in dealing with these kinds of issues and they will continue to be able to issue the new notice. However, the move towards neighbourhood policing and community safety teams in recent years has seen the police take a more active role in dealing with these issues, working with councils, and so police officers and police community support officers will also be able to issue CPNs.
15. The test is designed to be broad and focus on the impact anti-social behaviour is having on victims and communities. A CPN can be issued by one of the bodies above if they are satisfied on reasonable grounds that the conduct of the individual, business or organisation:
 - is having a detrimental effect on the quality of life of those in the locality;
 - is persistent or continuing in nature; and
 - is unreasonable.
16. Again it could be foreseen that evidence would have to be established to prove that a particular retail outlet was responsible for the sale of fireworks that were directly attributable to the ASB in a specific area.
17. It may be the case that in light of the recent petition, a letter of concern directed from the Committee to the Secretary of State, Greg Clark at BEIS may assist in highlighting the concerns of elected Members.

Recommendation

18. The Committee is asked to note the information and action if Members feel it is appropriate.

Report to the Tyne and Wear Trading Standards Joint Committee

16 February 2017

Update on the Safety of Bunk Beds

Paul Dowling, Strategic Director, Communities and Environment, Gateshead Council

Purpose of the report

To update the Committee on the response provided nationally to the recent product safety alert which concerns the safety of bunk beds.

1. Serious and tragic accidents have occurred where children have slipped through gaps in the restraining rails of bunk beds and trapped their heads. To prevent injury, strangulation or suffocation a British/European Standard BS EN 747-1: 2012+A1:2015 has been developed.
2. The Standard specifies various safety requirements including: Protective barriers, Guard rails, Ladders, Dimensions, Holes, Strength of materials, Durability, Instructions for use, Marking the permissible sizes of gaps in the structure of the upper bunks in bunk beds.

The General Product Safety Regulations 2005. (SI 2005 No. 1803)

3. The General Product Safety Regulations 2005 transpose Directive 2001/95/EC on general product safety into UK law. The purpose of the General Product Safety Directive is to ensure that all products intended for or likely to be used by consumers under normal or reasonably foreseeable conditions are safe.
4. The Directive pursues its principal objective of ensuring consumer product safety by:
 - specifying that products placed on the market or supplied by producers and distributors must be safe;
 - defining a safe product;
 - imposing obligations on producers and distributors consistent with marketing safe products;
 - laying down a framework for assessing safety;
 - requiring enforcement authorities to be empowered to take the action necessary to protect consumers from unsafe products.

Case Study

5. In December 2016 it was announced that a bespoke bunk bed manufacturer based in South Yorkshire is being investigated following the tragic death of a seven month child. The bed manufacturer has sold made-to-measure bunks, including castle and princess-themed beds, for between £300 and £600 since

2011. The firm ceased trading just days after the child's tragic death on the 3 November 2016.

6. Police and Trading Standards have launched an investigation and a safety warning has been issued for consumers who have purchased the bunk beds from the supplier to stop using the beds, stating that they could strangle children.
7. A spokeswoman for North Yorkshire police said: "*We are investigating the sudden death of a seven-month-old at a property in York. Police would appeal to customers of this business that if they have had any safety concerns or a child has suffered an injury as a result of the design of the bed, then please contact us*".
8. Sheffield City Council Trading Standards service is now carrying out an assessment of all the products manufactured by the business. The safety alert lists risks of: "*asphyxiation or strangulation, falling, entrapment or crushing*". It is feared that thousands of the products may have been sold by the firm.

Recommendation

9. The Committee is asked to note the information on this tragic event and the ongoing investigation which is contained within the report.



Report to the Tyne and Wear Trading Standards Joint Committee

16 February 2017

Gateshead to Host National Call Centre for Citizens Advice

Paul Dowling, Strategic Director, Communities and Environment, Gateshead Council

Purpose of the report

To notify the Committee of a national call centre for Consumer, Energy and Post going live in Gateshead.

1. The Citizens Advice Service are to deliver the consumer service through a small number of local Citizens Advice delivery centres from April 2017 onwards, with the transition to the new delivery centres commencing from February 2017.
2. Gateshead CAB were successful in the application process to host one of the large call centres and training has commenced with advisers going live on 13 February 2017.
3. The process has been rigorous, including written applications, presentations and site visits.
4. The successful delivery centres are outlined below.

Delivery Centre	Advisers (FTE)	Advice Areas
Gateshead	30	General Consumer, Energy and Post
Manchester (with Sheffield)	30	General Consumer, Energy and Post
Caerphilly	20	General Consumer
Cardiff and Vale of Glamorgan	20	General Consumer
Staffordshire North and Stoke-on-Trent	20	General Consumer
Torfaen	5	General Consumer
West Lindsey	5	General Consumer

5. There is a staggered go-live for each delivery centre, allowing the service to transition gradually between February and April and the current supplier will continue to deliver the service until July to ensure continuity of service.

6. The call centre is being hosted in Gateshead Civic Centre on the second floor within Communities and Environment.
7. Site visits will be welcomed by all stakeholders once the centre is fully up and running.
8. Liaison between Trading Standards and the national Citizens advice will be managed by the new role developed in the Gateshead bid by way of a relationship partnership manager role.

Recommendation

9. The Committee is asked to note the information.

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

Report to the Tyne and Wear Trading Standards Joint Committee

16 February 2017

Report of the National Audit Office: Protecting Consumers from Scams, Unfair Trading and Unsafe Goods

Paul Dowling, Strategic Director, Communities and Environment, Gateshead Council

Purpose of the report

The National Audit Office (NAO) on the 15 December 2016 issued its report on its recent review of the Consumer Landscape. It is a report to the Department for Business Energy and Industrial Strategy (BEIS) and they will officially respond in due course.

Summary

1. UK consumers spend over £1,160 billion a year on goods and services. Confident and active consumers play a key role in driving vigorous competition between firms, which then compete to supply what consumers want at the most efficient price. Consumer confidence is vital for both effective markets and economic growth.
2. Consumer detriment occurs when a customer is accidentally, carelessly or deliberately treated unfairly by a business or trader. It can be caused by a wide range of activities ranging from unfair commercial practices, such as misdescribed goods or pressure selling, to scams where criminals operate behind the appearance of a legitimate business.
3. In 2015-16, consumers contacted the Citizens Advice consumer service nearly one million times to seek information on their consumer rights or advice on how to solve specific problems. However, when things go wrong, the effects on consumers can be significant and often include financial loss and psychological impacts; in more severe cases, they can lead to injury or death, for example, from unsafe products. Some 35% of all UK consumers had a consumer problem in 2015. The most vulnerable individuals in society are particularly at risk, for example from being repeatedly targeted by mass marketing scams and rogue traders. Examples of consumer detriment include losses from:
 - Unfair trading. This is the most prevalent consumer issue, and can lead to significant individual detriment, for example caused by unfair contractual terms, misleading advertising, no access to redress, or high pressure selling. These problems may often be hidden from the consumer who will be unaware that they have suffered detriment.
 - Mass marketing scams, which are widespread and impact on the elderly and vulnerable. A typical postal scam victim is 74 years old and living alone. Victims aged between 75 and 79 years lose an average of £4,500 each and many experience psychological problems as a result, requiring the assistance of social services. Criminals typically sell on victims' details, with

National Trading Standards recently uncovering a list of over 500,000 names.

- e-crime, which is the most recorded crime in the UK and can affect anyone. High-volume low-value frauds, for example copycat websites, can involve individuals paying small amounts of money for a service that is free on the legitimate website. Investment fraud involves criminals defrauding wealthy individuals of large sums of money by selling non-existent investments.
 - Unsafe goods, which can cause injury and fatalities. Common recent examples include make-up that contained carcinogens, counterfeit medicines, and electrical items which caught fire when charging. Counterfeit items are often sold at huge discounts to the legitimate product and may disproportionately affect the poorest in society.
4. BEIS has overall responsibility for consumer policy, with some aspects devolved to the Scottish Government. The majority of law enforcement is carried out by local authority Trading Standards services, funded through a centrally distributed revenue support grant (administered by the Department for Communities and Local Government in England and the devolved administrations in Scotland and Wales) and locally raised income such as council tax and business rates. National Trading Standards is funded by the Department and covers regional and national issues. Citizens Advice provides advice and education to consumers, and is the contact point for people who have experienced a problem. The Chartered Trading Standards Institute provides information to businesses on consumer protection legislation. The Competition and Markets Authority uses its consumer powers to tackle market-wide issues to support competition and consumer choice, and has lead responsibility for unfair contract terms and international consumer issues. Together, these organisations make up the consumer protection system and share responsibilities, including:
- enforcing consumer protection legislation;
 - providing information, advice and education to business and consumers; and
 - consumer advocacy.
5. Consumer law aims to protect people from consumer detriment. It covers areas such as unfair terms, advertising, aggressive practices, and basic contractual rights. The consumer bodies also use a wide range of other legislation, for example the Fraud Act 2006. Other agencies, such as the National Crime Agency, the Police Service and HM Revenue & Customs (HMRC) work with the consumer protection bodies on issues such as trader fraud and imported counterfeit goods.

The Key Findings - Funding of consumer protection

6. BEIS does not routinely cost the consumer protection system but NAO estimates that it cost £165 million in 2015-16. Local Trading Standards services, funded at the local level, received £124 million. BEIS funds Trading Standards at the national level (£14.8 million), as well as Citizens Advice (£18 million). HM Treasury funds the Competition and Markets Authority, which spent £6 million on its consumer protection work in 2015-16.

Identifying consumer detriment and its impact

7. There is limited robust data on the overall scale of consumer detriment, but we estimate that consumers lost at least £14.8 billion in 2014-15. Detriment is difficult to estimate, in particular because in many cases, for example unfair terms, fraud or counterfeit goods, the consumer may be unaware of the detriment or unwilling to report it. Detriment caused by problems the consumer is aware of costs £10.6 billion annually. Using available data on doorstep crime, mass marketing scams and counterfeit goods we estimate hidden detriment is at least £4.2 billion. There are no robust data on the overall wider economic impacts of consumer detriment.
8. Consumers are facing increasingly complex and wide-ranging threats, in particular from the rise in e-commerce, and scams are becoming more targeted. The UK's e-commerce market is the largest in Europe and the third largest globally. Consumers often have to give personal data for online transactions, increasing the risks of identity theft and fraud. Resolving problems may be more difficult when traders are based in different jurisdictions. Scams involving extracting personal information from the victim rose 21% in 2015, while Citizens Advice considers that up to one in six products advertised on some e-trading sites are potential scams.
9. The consumer protection bodies have improved data on consumer threats, but significant gaps still remain. The NAO 2011 report found major shortcomings in intelligence and data systems. Since then National Trading Standards has created a national intelligence team, all regions now have analyst support, and intelligence logs have risen by 70%. The case study sites considered that the quality of intelligence has improved. However, there are still local authorities with no or few intelligence logs, the proportion of entries on product safety and e-crimes is low (5% and 3% respectively), and there are still issues with accessing other agencies' databases. Furthermore, consumer contacts to Citizens Advice, a critical source of data, have fallen by 18% in the last four years as consumers turn increasingly to social media to complain and self-help online tools.

Addressing consumer detriment

10. BEIS has improved the overall coordination of consumer protection bodies. The 2011 NAO report found that the consumer protection system was very fragmented with poor overall system coordination. An integrated approach is now even more essential as commerce has become increasingly national and international. BEIS created the Consumer Protection Partnership in April 2012, and key bodies now regularly share knowledge and intelligence, and coordinate work. BEIS also created National Trading Standards to cover national and regional issues and establish system-wide case management.
11. BEIS has little control over the majority of resources, making effective system prioritisation difficult. Prioritisation is necessary to use resources cost-effectively to address the highest areas of risk. Some 75% of funding is delivered locally, where local authorities have to balance resources with other services such as social care. We found local authority Trading Standards are incentivised to prioritise local issues, in particular safeguarding. A 2014 survey, shortly after BEIS established National Trading Standards, found that only around 7% of local authority Trading Standards were able to organise their service to reflect national priorities. Furthermore, they have to enforce up to 263 different pieces

of legislation, with little direction from government on the relative prioritisation of these.

12. The loss of resource and downsizing of Local Trading Standards services have led to gaps in coverage at the local level. Effective consumer protection relies on sufficient coverage across the local level, in particular to prevent enforcement gaps. Local Trading Standards has lost 56% of full-time equivalent staff since 2009. Twenty services in England have reduced funding by over 60% since 2011 and some now have only one qualified officer. The funding of smaller services is no longer sufficient for them to undertake significant enforcement cases, and a number of our case study sites were concerned about the viability of their service. There is no consensus on the minimum service level needed to protect consumers adequately.
13. The system is addressing national and international issues better but long-term planning is insufficient. National Trading Standards, which BEIS established in 2012, has prevented around £345 million worth of detriment to consumers since April 2014, with a cost–benefit ratio of around 12.6 to 1. It runs a number of specialist teams which address detriment such as mass marketing scams and the safety of imported products. However, funding of £13.5 million is small set against the size of the problem and annual budgeting prevents proper longer-term planning, with a heavy reliance on short-term staffing arrangements. National Trading Standards was unable to accept any new cases in the last third of the year due to a lack of resources. The Competition and Markets Authority estimates that its consumer enforcement work generates at least £74 million of direct financial benefits to consumers annually, at a cost of £6 million.
14. Government’s response has not kept pace with the growth in online consumer fraud. The Office for National Statistics estimates that there were 5.6 million incidents of online fraud and computer misuse in England and Wales in the year ending June 2016; the most prevalent recorded crime. Hosted by the City of London Police and funded by the Home Office, Action Fraud is the UK’s national fraud and cybercrime reporting centre, and the National Fraud Intelligence Bureau is the national crime dissemination centre. However, responsibility for responding is complex and sits with many different parts of government, including with Trading Standards. National Trading Standards has supported cases leading to convictions of 83 defendants with over 60 years of custodial sentences and £400,000 of confiscation orders. However, Trading Standards has lost e-crime expertise at the local level, and has a low profile with the National Fraud Intelligence Bureau, receiving around only 5% of the total number of referrals. The National Crime Agency considers that government is being outpaced by cybercriminals.
15. BEIS has created opportunities for a more preventative approach to consumer protection. BEIS recently introduced legislation strengthening consumer rights and ability for self-protection when things go wrong, for example by clarifying the period within which a consumer can return an item, and including new provisions for digital products. The effectiveness of these measures is reliant on consumer and trader awareness of the law, which is currently low. The Department has also consulted on giving consumer protection bodies’ civil fining powers although it has not yet decided on the outcome. The Competition and Markets Authority uses civil fining powers widely to deter businesses behaving anti-competitively in its competition work.

Recommendations

16. The recommendations are formulated to build on the work that BEIS and the consumer protection delivery bodies have done since the last NAO review in 2011, and are aimed at promoting greater system coherence across central government departments and local government. Many of these recommendations fall under the responsibility of BEIS, but can be taken forward by the Consumer Protection Partnership where relevant, while some recommendations need to be implemented across government more widely:
17. BEIS should ensure that detriment is estimated and reported regularly in a consistent manner. This could involve a biennial evaluation commissioned and owned by the Consumer Protection Partnership covering analysis of both, problems that consumers are aware of, and available data on hidden detriment. It will ensure that all bodies have insight on the scale, distribution, and trends of consumer problems and can balance the response appropriately.
18. BEIS should work with the Consumer Protection Partnership to continue to improve intelligence gathering and sharing across the system as a whole. This should involve addressing any barriers to intelligence sharing, and in particular making full use of information from consumer contacts.
19. BEIS should work with relevant departments, and the Department for Communities and Local Government, towards a shared understanding of risks to consumers. The governance, accountability, and incentives should be aligned with the delivery of outcomes at the appropriate level in line with the risks identified. This should include setting clear and realistic expectations of what each body should deliver, alongside reporting progress, so as to ensure that system priorities are met alongside local priorities. It could also include representation of Local Authority Trading Standards on the Consumer Protection Partnership.
20. BEIS should work with relevant departments, and the Department for Communities and Local Government, to ensure that consumer protection skills and capacity are deployed strategically to reflect how and where detriment occurs. This would help manage gaps at the local level and could include defining what a Trading Standards service is intended to deliver.
21. In the face of significant funding reductions, the Department should ensure that the most appropriate and cost-effective tool or intervention is available to the system as a whole, including new powers where appropriate. This could involve, for example:
 - Greater use of consumer advice and education to help prevent consumers falling victim to fraud.
 - Further improvements to consumers' ability to resolve complaints directly.
 - The introduction of civil fining powers as a strong deterrent against unfair trading (such as those used in the competition regime).
22. BEIS should ensure that its delivery bodies can plan for a longer period than annually. This should help build resilience into the system to facilitate better staff development and give greater confidence in dealing with cases that are expected to last longer than a year.

23. BEIS, together with the Home Office and other government departments, should coordinate further their separate activities addressing consumer fraud. In particular BEIS can raise the profile of the work of Trading Standards. This should ensure a more coherent approach to dealing with consumer fraud, including clear roles in identification, response and reporting of detriment according to relevant skills, powers and resources across government, with fuller recording of the detriment identified and prevented.

Recommendation

24. The Committee is asked to note the information.

Report to the Tyne and Wear Trading Standards Joint Committee

16 February 2017

Update on the Safety of Nitrous Oxide

Paul Dowling, Strategic Director, Communities and Environment, Gateshead Council

Purpose of the report

To inform the Committee of the latest developments with the marketing of and alleged abuse with the supply of products containing Nitrous Oxide. This update follows on from the Report received by the Committee on the 22 June 2015.

The Position with Nitrous Oxide

1. Nitrous oxide is a substance with a number of legitimate uses in medicine and catering. It is also the second most popular recreational drug amongst young people, with 7.6% of 16-24 year olds responding to the 2013/2014 Crime Survey for England and Wales reporting nitrous oxide use in the last year. When inhaled, the substance can make users feel euphoric and relaxed, with some reporting hallucinations.

Legitimate Uses

2. Nitrous Oxide is a medicinal product and, when mixed with oxygen, it is used to treat analgesia and as an anaesthetic. Use as a medicinal product typically involves large cylinders containing the gases, which are administered to the patient using a face mask in a variety of settings such as hospitals, dental surgeries and by ambulance crews.
3. Nitrous oxide is also an approved food additive (E942) when used as a propellant for whipped cream. Nitrous oxide is also used in vehicle engines.

Recreational Uses

4. Nitrous oxide is now being used recreationally in a number of settings such as clubs, private residences and is particularly prevalent at festivals. It is commonly sold in small metal canisters containing the gas, which is then transferred into a balloon for inhalation using a dispenser or a 'cracker'. These small metal canisters are sold in bulk online presented for use as a whipped cream propellant.

The Risks

5. Inhaling nitrous oxide can be dangerous, and can lead to loss of blood pressure, fainting and even heart attack. Prolonged exposure to nitrous oxide may result in bone marrow suppression and poisoning of the central nervous system. These

risks are likely to be increased if the exposure to the gas is combined with alcohol or other drugs.

Legislative Position

6. The Psychoactive Substances Act 2016 came into force on the 26 May 2016.
7. The Act creates a number of criminal offences covering the supply of a psychoactive substance. These apply across the UK including:
 - Section 4 - Producing a psychoactive substance
 - Section 5 - Supplying, or offering to supply, a psychoactive substance
 - Section 7 - Possession of a psychoactive substance with intent to supply it
 - Section 8 - Importing or exporting a psychoactive substance
 - Section 9 - Possessing a psychoactive substance in a custodial institution
8. The Misuse of Drugs Act 1971 continues to be the main piece of domestic drug legislation in the UK and controls over 500 psychoactive substances (as well as other harmful drugs such as heroin and cocaine). Substances controlled under the 1971 Act will not be covered by the Psychoactive Substances Act 2016.

What is a Psychoactive Substance?

9. The new Act captures psychoactive substances not previously covered by the drugs framework, such as nitrous oxide. Unlike previous drugs legislation, this Act does not list substances that are affected, but covers any that fit its definitions (much like the Intoxicating Substances Act 1985).
10. There is a general understanding of so-called 'legal highs' as replacements for controlled drugs, but the Act provides a specific definition based on their effect on people. A substance must be capable of having a psychoactive effect (as defined in the Act) in order to be covered by the new legislation. A psychoactive substance is defined as one which affects a person's mental functioning or emotional state by stimulating or depressing their nervous system.
11. In practice this includes the kind of effects that we associate with controlled drugs, such as the following:
 - hallucinations
 - changes in alertness
 - perception of time and space
 - mood or empathy with others
 - drowsiness
12. This wide definition is intended to pre-empt new substances emerging onto the drugs market because it defines them by their effects, rather than by their chemical structure. This means that it may be difficult for retailers to know if a substance is affected by the PS Act or not.
13. A large range of substances are completely exempted from the Act because they are fully regulated by existing laws. This means that nothing need change in the way that they are sold. The exempted substances are:
 - Food
 - Any Medicinal products (defined by Human Medicines Regulations 2012)

- Alcohol
- Controlled drugs
- Nicotine and tobacco products
- Caffeine

General Product Safety Regulations 2005

14. These Regulations state that in order to assess the safety of a product will be assessed having regard to a number of matters and, in particular:
- The product's characteristics,
 - packaging,
 - instructions for assembly and maintenance, use and disposal,
 - the effect on other products with which it might be used,
 - labelling and other information provided for the consumer,
 - the categories of consumers at risk when using the product, particularly children and elderly.
15. Very importantly the term "Normal or Reasonably foreseeable conditions of use" is defined within the legislative provisions.
16. The majority of the products identified as containing Nitrous Oxide are being categorised as "for catering purposes only". The critical test to then cite and declare the product as unsafe would be the end user test around normal or reasonably foreseeable conditions of use which is obviously a practical issue for the Courts to rule on.

Case Study

17. Following a recent conviction of a company of a company operating across Newcastle supplying nitrous oxide to residential properties, officers are now in a position to provide the following update:
- Undercover investigation conducted by BBC Inside Out in February 2016, found that Toon Whip a Newcastle catering company, selling nitrous oxide as a recreational drug, rather than for whipping cream as advertised.
 - Toon Whip appeared to target students with its online marketing. Website warned buyers not to inhale, but on the 3 February 2016 a BBC reporter was shown how to use it that way when a delivery arrived.
18. Business had been previously advised by City Council Trading Standards in 2015 of its alleged illegal business activities and following an undercover investigation by Metro radio.
19. New allegation brought to attention of Trading Standards by the BBC. Criminal investigation commenced into selling of unsafe product under General Product Safety Regulations 2005.
20. Following the investigation prosecutions were initiated by the City Council against Out the Kitchen Limited and its 2 Directors.
21. Trial set at Newcastle Magistrates Court on the 5 January 2017. Guilty Plea entered on behalf of company. Fined of £7000 plus costs of £500 and court surcharge of £120.

22. Extensive Press coverage of the conviction of the company on the BBC, Tyne Tees and in the Chronicle.

Recommendation

23. The Committee is asked to note the information.

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

16 February 2017

**United Kingdom Accreditation Service Audit
2017**

Paul Dowling, Strategic Director, Communities and Environment, Gateshead Council

Purpose of the report

To inform the Committee about the latest audit of the Metrology Laboratory by UKAS.

Scope of audit

1. Mass calibrations from 0.5mg to 25kg at four accuracy levels to ISO17025.
2. Mechanical and Physical toy testing to EN71, Part 1 and ISO17025.
3. Flexible scope applied to testing in accordance with UKAS Lab 39

Outcomes

4. UKAS sent a completely new assessment team to conduct a surveillance audit in January 2017. The team seemed impressed and the laboratory maintains its accredited status for the two aforementioned activities.
5. UKAS confirmed the demise of the Chemical testing of toys to EN71, Part 3 and this had previously been removed from our schedule before the visit. .
6. UKAS implied that they were nervous about laboratories having flexible scope due to a perceived lack of control by them and were trying to encourage the laboratory to surrender that part of accreditation.

Possible extensions to Schedule

7. To provide a calibrated service for testing weighing instruments, such as those found in hospitals and Universities. This will not require any procurement and is only dependant on staff competency and availability.
8. To provide a calibrated service for volumetric glassware such as those found in pharmaceutical industries. This will not require any procurement and is only dependant on staff competency and availability.

Recommendation

9. The Committee is asked to note the information.

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