



TYNE AND WEAR TRADING STANDARDS JOINT COMMITTEE AGENDA

Thursday, 24 November 2022 at 10.00 am in the Whickham Room - Civic Centre

From the Chief Executive, Sheena Ramsey

Item	Business
1	Apologies for Absence
2	Minutes (Pages 3 - 14) The Joint Committee is asked to approve as a correct record the minutes of the previous meeting.
3	Projected Outturn as at 30 September 2022 (Pages 15 - 20) Report of the Strategic Director, Resources and Digital
4	Report and Statistical Return for period to November 2022 (Pages 21 - 24) Report of the Service Director, Economy, Innovation and Growth
5	Update on the Passing of the Fireworks and Pyrotechnic Articles (Scotland) Bill (Pages 25 - 26) Report of the Service Director, Economy, Innovation and Growth
6	Update on the Response to Rogue Door to Door Fish Sellers (Pages 27 - 32) Report of the Service Director, Economy, Innovation and Growth
7	Update on the Khan Review: Making Smoking Obsolete (Pages 33 - 34) 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 Lowson

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 (m²) (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 185.8m² (2,000 square feet) (exempt from location restrictions)
- the presence of any products that are part of the food in scope categories in a restricted volume price or location promotion, in store and online
- if there are products in these categories on volume price or location promotions, to ascertain from the retailer how they have ensured that these are not HFSS or 'less healthy'.

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

Purpose of the report

To advise the Joint Committee of the projected outturn for 2022/23.

Background

1. The projected revenue outturn for 2022/23, as at 30 September 2022 is set out in Appendix 1.

Recommendation

2. The Committee is asked to note the details of the report at Appendix 1.

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Appendix 1

	Budget 22/23 £	Outturn 22/23 £	Variance 22/23 £
Income			
Fees & Charges	140,545	110,519	30,026
S.11 Stamping Fees	7,911	500	7,411
Levy on Constituent Authorities	231,635	231,635	0
Total Income	380,091	342,654	37,437
Expenditure			
<i>Employees</i>			
Direct Pay	232,010	201,425	-30,585
Indirect Pay	358	358	0
	<u>232,368</u>	<u>201,783</u>	<u>-30,585</u>
<i>Premises</i>			
Repairs & Maintenance	14,829	14,829	0
Utilities	16,080	16,080	0
Rent	4,000	4,000	0
Rates	9,180	9,180	0
Other	7,559	7,559	0
	<u>51,648</u>	<u>51,648</u>	<u>0</u>
<i>Transport</i>			
Car Allowances	500	500	0
Vehicle Running Costs	1,000	1,000	0
	<u>1,500</u>	<u>1,500</u>	<u>0</u>
<i>Supplies & Services</i>			
Furniture & Equipment	21,000	21,000	0
Equipment Lease - Hire Or Rent	10,852	5,000	-5,852
UKAS Fees	9,000	9,000	0
Telephones	1,000	1,000	0
Printing & Stationery	2,855	3,253	398
Insurance	4,135	4,135	0
Postage	1,000	1,000	0
Miscellaneous	7,000	10,335	3,335
	<u>56,842</u>	<u>54,723</u>	<u>-2,119</u>
<i>Central Admin</i>			
Met Lab Central Admin	38,798	38,798	0
	<u>38,798</u>	<u>38,798</u>	<u>0</u>
Total Expenditure	381,156	348,452	-32,704
Net Expenditure	1,065	5,797	4,732
	<u>-0</u>	<u>-0</u>	<u>-0</u>

	Outturn
	22/23
	£
Reserve balance at 31st March 2022	-166,150
<i>Expected transfer from Reserve</i>	5,797
Expected reserve balance at 31st March 2023	-160,353

Levy on Constituent Authorities

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

Notes

Actuals: 19/20 £145k, 20/21 £115k, 21/22 £115k

*Vacant Laboratory Manager post partially offset
by senior staff acting up.*

No spend to date

*Spend to date £1k
2021/22 included hire of weighbridge and test
unit.*

*Includes memberships to BSI and UK Weighing
Fed £2k*

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24 November 2022

Report for period to November 2022

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

Purpose of the report

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

Metrology Laboratory

Operational

1. The laboratory is back to full strength with 6 members of staff but with the Senior Trading Standards Officer (STSO) working on a part-time basis of 2 days. There are plans in place to advertise and recruit a full-time STSO, with Allan Winthrop agreeing to remain in post until the process is complete but no later than March 2023. Recent recruits to the laboratory have settled in well and have been utilised by all 5 authorities to assist with Trading Standards tasks.
2. David Malone and Stephen Rudd continue to act as Laboratory Manager and Technical Manager respectively. Their experience has been beneficial in the training of new staff as well as the service provided to both stakeholders and external customers.
3. Submissions to the laboratory remain consistent, especially when compared to last year's record submissions. Attached as Annex 1 to this report is a comparison with last year's figures that includes all work including submissions up to the end of the third quarter. With recently recruited staff trained and up-to-speed with the laboratories working practices turnaround times to all customers are back to expected levels.
4. The laboratory has placed an order for a set of block weights (50kg x2, 100kg and 250kg). These weights will allow for quicker turnaround times of large weight calibrations and will also reduce the risk of any manual handling injuries.

Aid and Advice to Industry

5. The laboratory has a loyal customer base throughout the Tyne and Wear region and beyond that continues to utilise the calibration services for weights, scales and measures. As well as calibrations, customers regularly seek advice on metrological issues from experienced and knowledgeable members of staff.
6. The laboratory's hire weights have been used by local industry to aid in the calibrations of a range of equipment including weighing platforms, manufacturing equipment and fishing boats.
7. The Public Weighbridge continues to provide an essential service within the region

both to regular customers using the weighbridge for business reasons and to individuals keen to ensure their vehicles are roadworthy and legal to use on public roads. Post pandemic the weighbridge test unit (WBTU) is booked for the 5 Tyne and Wear authorities to utilise for a week each May and November. The WBTU always begins its week at the laboratory's weighbridge which is seen as a benchmark for other weighbridges in Tyne and Wear.

Inter-Laboratory Comparisons

8. 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.

UKAS Calibrations

9. The submissions have been consistent, and the numbers are presented in Annex 1
10. The laboratory will be audited by UKAS in January 2023 for both mass calibration and toy testing.

Product Safety

11. 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.
12. During the reporting period the laboratory tested a toy for North Yorkshire County Council under its UKAS accreditation which failed the standard for safety reasons. The toy allowed access to a small part which if swallowed could choke a small child. North Yorkshire County Council are taking action to ensure the toy is removed from sale nationally.

Other Items

13. OPSS recently visited the laboratory to carry out calibrations of the local standards which are used to calibrate Trading Standards equipment.

Recommendation

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

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

**Annual Total 2021
(Quarter's 1, 2 & 3)**

Submissions		Items
373	UKAS M1	2414
37	UKAS F2	142
528	UKAS F1	1561
139	UKAS E2	581
Total UKAS Submissions		4698
36	Sec 74(4)	43
8	NAWI	7
1	Volume	1
12	Traders	61
8	Verification	6
Total Submissions		4816

**Annual Total – 2022
(Quarter's 1, 2 & 3)**

Submissions		Items
244	UKAS M1	2579
32	UKAS F2	197
257	UKAS F1	1381
66	UKAS E2	574
Total UKAS Submissions		4731
42	Sec 74(4)	110
1	NAWI	1
1	Volume	1
0	Traders	0
1	Verification	1
Total Submissions		4844

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Report to the Tyne and Wear Trading Standards Joint Committee

24 November 2022

Update on the passing of the Fireworks and Pyrotechnic Articles (Scotland) Bill

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

Purpose of the report

To update the Committee on the passing of a Fireworks and Pyrotechnic Articles Bill that has been introduced in Scotland.

1. In June 2022 new Scottish legislation was passed to control the sale and use of fireworks with the aim of improving public safety and benefit communities.
2. The Fireworks and Pyrotechnic Articles (Scotland) Bill passed following a Scottish Parliament debate and introduces a fireworks licensing system, with mandatory safety training, for people wishing to purchase and use fireworks.
3. It also introduces powers for local authorities to designate firework control zones, restrictions on the supply and use of fireworks, and a new offence to criminalise the supply of fireworks and pyrotechnics to under-18s.
4. 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.
5. The passage of the Bill saw extensive consultation and stakeholder engagement with the legislation receiving strong backing from a coalition of professional medical bodies who described it as an “historic achievement” and “a major step forward for injury prevention in the community”.
6. The Bill is the final legislative part of work towards improvements in firework safety which began in 2019, with an overwhelming response to a consultation on the use of fireworks, across over 16,000 responses, delivering a very clear message on the desire for change. This led to the creation of the Fireworks Action Plan and the establishment of the Firework Review Group. The group made a series of recommendations for legislative and non-legislative changes to reduce the harm and the disturbance from firework use.
7. A further consultation last year, ahead of the Bill’s introduction, further demonstrated strong desire for change. Analysis of the 2021 consultation responses showed 84% of respondents agreed a fireworks licensing system should be introduced in Scotland.
8. 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.

9. Community Safety Minister Ash Regan said:

“This ground-breaking new legislation will improve the lives of people right across Scotland. This is not a ban on fireworks. We still want people to enjoy them safely, for example attending organised displays.

“But this vitally important step will make firework use more predictable and safer. The Bill will ensure appropriate action can be taken over the dangerous or disruptive use of fireworks, as well as reducing the misuse of pyrotechnic devices such as flares”.

10. Eleanor Robertson, Senior Clinical Research Fellow, Burns and Plastic Surgery at Glasgow’s Royal Infirmary said:

“Having witnessed the initial and lasting impacts of firework injuries, we welcome any move to protect people in Scotland from firework-related harm. Incidents involving fireworks and pyrotechnics can be devastating to those impacted and can alter someone’s quality of life permanently.”

Recommendation

11. The Committee is asked to note the information contained in the report and consider what action we can take locally to combat the use of fireworks by members of the public.

Contact: Judith Shewan, South Tyneside Council,
Judith.Shewan@southtyneside.gov.uk

Report to the Tyne and Wear Trading Standards Joint Committee

24 November 2022

Update on the Response to Rogue Door to Door Fish Sellers

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

Purpose of the report

To update the Committee on the regional response to the important issue of Rogue Door to Door Fish Sellers.

1. One of the most identifiable issues related to doorstep crime for Trading Standards services/Environmental Health services and also the Police Services, is the illegal activities of certain rogue individuals, going door to door targeting the most vulnerable and selling quantities of fish.
2. When buying fish from door to door salesmen, the consumer very often has no way of knowing how the fish have been stored and whether they are safe to eat. These type of businesses commonly use non-refrigerated vans, and there may be issues with the labelling, quality, and descriptions of the fish.
3. 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.
4. There are also concerns that the traders may pressurise residents to buy more than they actually need. The best place to buy fish is from a reputable fishmonger at an established shop or stall or even with a trader with a regular pre-arranged round.
5. Following concerns about these illegal activities both locally and indeed national the Regional Investigations Team hosted by Redcar & Cleveland BC and funded by the National Trading Standards Board continues to undertake a complex investigation into these illegal activities.
- 6.
7. In November 2019 and July 2021 officers reported to Committee on the conviction of a number of individuals involved in these type of rogue business activities. As a further update:

Mr Pendlington

8. A mobile fish seller was handed an eight-month custodial sentence at Teesside Crown Court on the 22 September 2022 for selling poor-quality fish to elderly people using aggressive, misleading, and unfair selling and business practices through his company, Trawler Fresh Limited

9. Between May 2019 and May 2020, Brian Pendlington, from Ouston, Chester-Le-Street, County Durham, caused 28 victims to lose more than £6,000 between them. The average age of his victims was 70 years old. Many lived alone and some were suffering from serious health conditions.
10. Mr Pendlington was also handed an unlimited Criminal Behaviour Order, preventing him from doorstep selling.
11. Mr Pendlington previously pleaded guilty to the offence of contravening professional diligence, contrary to the Consumer Protection from Unfair Trading Regulations 2008, on 20 June 2022 at Teesside Crown Court. Redcar and Cleveland Borough Council took the prosecution after an investigation by the National Trading Standards North East Regional Investigation Team.
12. Since July 2013, Mr Pendlington has been warned repeatedly about his behaviour and has been offered advice and support to help him meet his legal responsibilities. After complaints about Pendlington persisted, the National Trading Standards North East Regional Investigation Team investigated him further, finding that he:
 - Sourced fish cheaply and sold it at exorbitantly high prices
 - Sold primarily to elderly people
 - Used misleading and aggressive sales techniques
 - Continued to operate during the first Covid-19 lockdown, taking advantage of the fact that many older people were finding it difficult getting to the shops.
13. Mr Pendlington, who targeted victims across the Midlands and the North of England, operated with total disregard for the quality of the fish he was supplying and the safety of his customers. Trawler Fresh Limited had no safety procedures in place and broke the law by failing to properly record the temperature at which the fish was stored, label what the fish was and where it had come from or provide use-by dates. An expert found some of the fish was unfit for human consumption.
14. One victim, who was 71 and lived alone, was pressurised into purchasing around 40 packs of fish for £495, which were loaded into her freezer by a salesman who didn't give her the chance to inspect her purchase. Another, who suffered a similar experience and was charged £195, described feeling violated and vulnerable in her own home.
15. Victims felt they had no choice but to pay. Where returns were requested, victims were told that this was not possible as the "chill chain" had been broken because the fish had been placed in their freezer. In some cases, Pendlington repeatedly failed to provide receipts or cancellation rights, and those who did attempt to cancel or complain rarely received a response.

Mr Henderson

16. A mobile fish seller who defrauded elderly and vulnerable people out of £246,000 was sentenced to 5 years and 7 months on the 27 October 2022 at Teesside Crown Court.

17. Craig Henderson, 50, of Chester-Le-Street, County Durham, targeted victims as old as 105* using aggressive, manipulative, and unfair selling and business practices. Victims across England were pressured in their homes into paying exorbitant prices for fish that was often unfit for human consumption.
18. In some cases, payment was taken without permission and many victims were not told the price of the fish until it was already in their freezer. Most of Henderson's victims were retired, with many living alone or suffering from serious health conditions.
19. Mr Henderson was also handed an indefinite Criminal Behaviour Order, preventing him from doorstep selling.
20. Mr Henderson, who used various trading names including Scotland's Finest, Atlantic Fisheries and North Atlantic Fresh Fish, was convicted following a prosecution taken by Redcar and Cleveland Borough Council after an investigation by the National Trading Standards North East Regional Investigation Team.
21. The crimes were carried out between November 2017 and June 2021 and Mr Henderson pleaded guilty to fraudulent trading at Teesside Crown Court on 4 May 2022. He has six previous convictions for 62 offences.
22. Mr Henderson was warned repeatedly about his behaviour and offered support to help him meet his legal responsibilities. After complaints about him persisted, an investigation found that Henderson:
 - Sold fish at exorbitantly high prices, primarily to older people
 - Pressurised victims into making a purchase by placing the fish in the victim's freezer without being asked to do so
 - Misused his card processing terminal by keying in incorrect payment information
 - Used vehicles with trader signage not linked to his business to give his customers confidence and enhance his credibility
 - Continued to operate during the first Covid-19 lockdown, taking advantage of the fact that many older people were finding it difficult to get to the shops
 - Became threatening when challenged.
23. Henderson had no food safety procedures in place and broke the law by failing to properly record the temperature at which the fish was stored, label what the fish was and where it had come from or provide use-by dates. One victim described the fish as appearing 'unhygienic with lots of flies around it.' Some victims claim they became unwell after eating the fish and many threw their fish away.
24. 110 victims provided a statement, though it is believed Mr Henderson was offending on a much larger scale. Victims describe feeling coerced, conned, and foolish. One person was targeted four times and "felt obliged to buy due to his intimidating nature". On each occasion, she was home alone and only bought fish to get him to leave. Another described how Henderson offered to drive her to a cash machine – after cooking one of the packs of fish she bought, she had to throw the other 13 away. Another victim described how she paid £370 for 36

packs of unlabelled fish which she had no chance to inspect after Henderson entered her home uninvited.

Mr Shanks

25. A door-to-door fish seller who made £100,000 by ripping off elderly and vulnerable people has been sentenced to 3 and a half years – reduced to 2 years and 4 months which will be served immediately - today at Teesside Magistrates Court for defrauding customers through his company, D T Shanks Fresh Fish*.
26. Between June 2016 and February 2021, Darren Shanks 53, of Kimblesworth, Chester-Le-Street, County Durham, conned customers across the Midlands and the North of England by mis-selling over-priced fish using aggressive, unfair and dishonest business practices. Mr Shanks pleaded guilty under the Fraud Act 2006 on 28 July 2022.
27. Mr Shanks was also handed an indefinite Criminal Behaviour Order for his actions.
28. Despite several previous attempts to get Mr Shanks to comply with the law, his activities continued to generate complaints. Redcar and Cleveland Borough Council led the prosecution after an investigation by the National Trading Standards North East Regional Investigation Team.
29. Statements were taken from more than 45 victims, many of whom felt they had no choice but to pay and were left feeling cheated and ashamed. Investigators found that, like other criminal fish sellers operating in the area, Shanks sourced fish cheaply and sold it at exorbitant prices, mostly to elderly and vulnerable people, many of whom lived alone.
30. Ignoring hygiene standards, Shanks didn't record the temperature at which fish was stored and often failed to label the fish properly, such as missing use-by dates. Many of his customers threw away their fish due to its bad taste or smell.
31. On the doorstep, Shanks used dishonest and aggressive sales techniques. These included claiming fish was fresh when it had been frozen, lying about the cut or species and selling underweight fish. He falsely claimed that he supplied a famous fish and chip shop in Whitby and had a regular round in the victims' area. He often failed to mention price until the fish was in the victim's home and regularly left excessive quantities, without giving customers the chance to inspect their purchase.
32. Several victims describe feeling threatened by Shanks' reaction when they said they couldn't afford to pay or challenged the price. One victim, who took over negotiations from her husband who had advanced Parkinson's disease, was subjected to aggressive tactics, and afterwards felt ashamed that she had been bullied into buying the fish. Another victim, who lives alone, described feeling 'quite scared' and 'very intimidated' as a result of Mr Shanks' harassment after she cancelled her cheque after realising the fish was inedible.

33. To date, eight other mobile fish sellers from the North East have been identified, convicted and sentenced before the Crown Court and two more cases are pending.

34. Lord Michael Bichard, Chair, National Trading Standards, said:

“Threatening older victims – including at least one aged over 100 – and intimidating them in their own homes shows utter cowardice. Many victims were repeatedly targeted, giving the defendant money they could not afford to lose, just to make him go away.

“Once again our team in the North East – who have carried out a number of prosecutions against illegal fish sellers – have stopped a ruthless individual in his tracks and prevented untold further harm. I’m proud of everyone involved for their relentless efforts to identify and bring these criminals to justice.

“If you have been a victim or know someone who has, you should report it to the Citizens Advice consumer service helpline by calling 0808 223 1133.

That way we can stop this happening in your neighbourhood.”

Recommendation

35. The Committee is asked to note the information contained in the report.

Contact: Darren Coulton, Sunderland City Council, on 0191 or email
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24 November 2022

**Update on the Khan review: making smoking
obsolete.**

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

Purpose of the report

To update the Committee in relation to the Khan review – making smoking obsolete and the independent review by Dr Javed Khan OBE into the government’s ambition to make England smokefree by 2030.

1. In a significant independent review into the government’s current tobacco control policies, led by Dr Javed Khan OBE, looked into whether government will achieve its ambition to make England smokefree by 2030. The Report was published on the 9 June 2022.
2. 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 causes of health disparities.
3. 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.
4. The review makes 15 recommendations for government to achieve a smokefree society. This includes 4 critical recommendations:

Increased investment

5. The Report sets out the case for comprehensive investment now of an additional £125 million per year in smokefree 2030 policies, to fund the easily accessible, high-quality support that smokers need to help them quit. This includes investing an extra £70 million per year in stop smoking services, ringfenced for this purpose.
6. 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 corporation tax, with immediate effect.

Increase the age of sale

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

Promote vaping

8. The government must embrace the promotion of vaping as an effective tool to help people to quit smoking tobacco. The Report accepts that vapes are not a 'silver bullet' nor are they totally risk-free but asserts that the alternative is far worse.

Improve prevention in the NHS

9. Prevention must become part of the NHS's DNA. To reduce the £2.4 billion that smoking costs the NHS every year, the NHS must deliver on its commitments in the Long-Term Plan. It must do more, offering smokers advice and support to quit at every interaction they have with health services, whether that be through GPs, hospitals, psychiatrists, midwives, pharmacists, dentists, or optometrists. The NHS should invest to save, committing resource for this purpose.

Other recommendations

10. The Report calls upon the government to introduce a tobacco licence for retailers, to limit the availability of tobacco across the country. There should be a fundamental rethink of the way cigarette sticks and packets look, to reduce their appeal. A smokefree society should be the social norm, which is why there should be even more smokefree places (in hospitality and outdoor places where children congregate), where people cannot smoke.
11. Investing in a well-designed mass media campaign will help create this smokefree culture, while encouraging smokers to quit. Substantially raising the cost of duties (more than 30%) across all tobacco products will also encourage smokers to quit, by increasing the cost of smoking. Abolishing all duty-free entry of tobacco products at our borders.
12. The Report also asks the government to accelerate the path to prescribed vapes and provide free Swap to Stop packs in deprived communities. Alongside this they should do everything they possibly can to prevent children and young people from vaping, including by banning child friendly packaging and descriptions.
13. The Report recognises to achieve all of this, it will also be important to tackle illicit tobacco, which often sells tobacco cheaply and to underage young people.

Recommendation

14. The Committee is asked to note the information. Further information can be found at: <https://www.gov.uk/government/publications/the-khan-review-making-smoking-obsolete>

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