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Introduction

- The meaningful assessment of the performance of any council service is never straightforward and for a regulatory service like Trading Standards the challenge, if viewed from the perspective of the quantitative numerical indicators that are common in other areas of council activity, rarely achieves anything beyond counting relatively meaningless inputs and outputs.
- Some numerical indicators can and do however provide an invaluable insight into the problems that exist for consumers and legitimate business and that presents Trading Standards with the challenge of finding solutions or at least strategies to attempt to combat these problems.
- The tangible outcomes and impacts that result from regulatory activity are the real indicators of performance, but even here where the decline in the recorded levels of some undesirable activity can accurately be assessed, the factors that may have contributed to that apparent change cannot always be clearly attributed to any one factor.
- For the reasons stated above, this report although it includes reference throughout to indicators of one sort or another, the emphasis is on reporting what work was done over the last year, why it was done, what was sought to be achieved and what outcomes and impacts can reasonably be attributed to that work.
- The identifiable outcomes and assessed benefits, both major and minor, achieved over the year are a tribute, not to a team of people who are driven to satisfying any performance targets, but by a team that is motivated to make a positive difference for consumers and legitimate business and to detect, disrupt and deter those who chose to disregard consumer protection and other trading standards laws within our jurisdiction.

Service Description

- The public face of Trading Standards is often portrayed as dealing with unfair trading practices, rogue traders, scams etc., the removal of unsafe products, fakes and counterfeits from the market place and regulating the supply of Age Restricted products.
- The preventative role that Trading Standards undertakes however still remains a critical part of our work which is necessary in addressing the expectations of government, communities and business in ensuring compliance with the very significant body of consumer and trading practice law that regulates the routine transactions that affect everyone on a daily basis. This work is often seen as less high profile, but nonetheless important in ensuring that businesses are fully aware of and comply with the legal requirements that contribute to boosting consumer confidence and providing that “level playing-field” that business needs in order to thrive.
- This “Preventative - Compliance “ work includes: -
 - General Fair Trading
 - Pricing,
 - Credit,
 - Weights & measures,
 - e-commerce,
 - Taxi and Private Hire Car standards,
 - Health & safety relating to the supply and storage of petrol and pyrotechnics.

- Operational staff numbers although having declined between 2008 and 2012 have remained at 16.8 full time equivalent staff during 2014/15. The responsibilities of these officers is split between responding to service demands from the public and delivering an intelligence led and targeted project/ initiative based approach to the regulation of the nearly 10000 businesses operating in Highland whose activities we have an interest in and the many more based outwith the region that impact on Highland consumers. A current staff structure plan is attached as [Annex 1](#).
- Pressure to do more with less is a feature of all public services, but the failure to address issues first identified by Audit Scotland over a decade ago has resulted in no less than three ongoing reviews of Consumer Protection/ Trading Standards, by COSLA, the Scottish Government and UK Government. The service remains viable in Highland, but increasingly the response from other authorities to requests for assistance in dealing with businesses based within their area is continuing to diminish, with an associated likelihood of Highland consumers suffering detriment increasing as a result.
- In addressing these issues, in response to government direction and the need to focus the resources we have available on those issues that present the highest risk of economic detriment and public safety, the routine cyclical inspections of businesses that were once our focus are with few exceptions a thing of the past.
- For all but a few specific high risk business activities for which inspection remains the only viable way of ensuring public protection, proactive contacts with businesses or market surveillance activity is now based on one of the following criteria:-
 - The available evidence or intelligence points to there being a problem with an individual business or industry sector; ***e.g. delivery charges project; itinerant traders; Doorstep Crime/ Cold Calling; the sale of illicit goods including tobacco, counterfeits; under-age sales, etc.***
 - The available evidence or intelligence points to there being a significant safety or economic detriment problem associated with a specific product or service and the target business is assessed as having a high probability of being involved in the supply of that product or service; ***e.g. response to a product safety alert; response to a new scam being identified;***
 - There is an assessed risk of non-compliance by businesses within an industry sector that would present an unacceptably high risk of economic detriment for consumers or businesses, or a danger to the public; ***e.g. Bulk Liquid Fuel Deliveries; manufacturers and importers of regulated goods;***
 - The particular industry sector to be targeted is the subject of some significant new “Trading Standards/ Consumer Protection” legislation, which would necessitate contact with those businesses affected to ensure that they had a reasonable knowledge and understanding of the new legislation and how to comply; ***e.g. Revised Distance and Doorstep Selling Regulations, or other European based consumer protection laws that have been introduced in recent years.***
 - Contact with the business is planned as part of a targeted local, regional or national investigative or research initiative that we have undertaken to take part in, often together with other partner agencies;

Summary of 2014/15 Activities

Although a more detailed report of activity against each of the headings identified in the operational plan follows in [Annex 3](#), the following summary is intended to provide an overview of our work, an insight into some of the highlights of the planned work undertaken and operational issues that have arisen and were addressed during the year.

Overall Activity Levels

- 1.1. **There are almost** 10000 business premises based in Highland that are of some regulatory interest to Trading Standards, ranging from manufacturers, producers and retailers to service providers of all descriptions and scales of operation.
- 1.2. During 14/15 Trading Standards staff had over **2300** interactions to various extents with approximately **1700** business. The majority of these businesses were based in Highland, but approximately 15% were based outwith the area.
- 1.3. **356** Business Advice requests were responded to by Trading Standards staff over the year and **1515** consumer complaints and enquiries requiring 2nd tier advice were received direct or were referred to us from Citizens Advice Consumer Service.
- 1.4. Over 200 of these cases required our active intervention in the cases, resulting in over £130,000 of redress for the consumers involved. A full report on Consumer Complaints activities is included in the report at [Annex 4](#)
- 1.5. An additional **1765** notifications from our partners at the Citizens Advice Consumer Service (CACS) were received identifying requests for 1st tier consumer advice from Highland consumers or about Highland based businesses. The relevance of these notifications being our regulatory role in monitoring these for any hidden or emerging issues that can may require Trading Standards intervention.
- 1.6. **148** in depth investigations were conducted into a variety of issues during the year. These investigations, initiated as a result of complaints, matters discovered during routine interactions with business and/or intelligence received from numerous sources, have at their core the reasonable suspicion that a significant breach of the criminal or civil law, relating to a trading activity within Trading Standards remit has or is taking place. A full report on investigations is included in the report at [Annex 5](#)
- 1.7. A tabulation of various statistics and extracts for returns made to other bodies including formal regulatory outcomes is included at [Annex 2](#). It should however be recognised that the great majority of the regulatory outcomes have been achieved by active discussion and voluntary compliance by the businesses involved rather than the taking of enforcement action, which is reserved for the most serious cases or where urgent action due to public safety being put at risk is involved.

e-Commerce/ Crime

- 1.8. The internet has brought choice and opportunities for Highland consumers and businesses that are very welcome. However, as with any other mode of trading, it has its share of illegal and fraudulent practices. Some of these are tackled like any other Trading Standards case, culminating in typical disposals such as formal warnings, civil court actions and prosecutions. However, some of the perpetrators of e-crimes are based overseas out of the reach of the Scottish and UK authorities. If the scammers are targeting Highland consumers, then Highland Trading Standards will take other steps to address the situation, usually through what are known as “disruption techniques”.

- 1.9. One such technique is “website takedown”. This involves persuading a reputable internet “intermediary” that the content of a website is illegal and it should be taken off the Web. Most commonly, this is done through the “host”, i.e. the internet company that stores the website’s information and enables its connection to the Web. One example from the year involved a scammer claiming to be “Highland Commercial Vehicles” based at Bank Street, Inverness and offering vans and other commercial vehicles for sale online. There was no such company and victims of this fraud sent money in response to apparent purchases on eBay but never received the vehicles. Highland Trading Standards received a number of complaints and the effect on consumers and the reputational damage to the local motor trade and the Highlands in general made this a matter for action. Detailed contact with the hosting companies led to several websites run by this scammer being taken offline and potential future victims protected.
- 1.10. The international nature of e-crime scams was highlighted during an investigation into a ski accommodation agency website purporting to be based in the Highland Council area. The website was taken down but unfortunately not before consumers from as far away as Finland lost all of their money.
- 1.11. The disruption approach can also extend to targeting other forms of telecommunications that aid scams. For example, one case from the year involved a scam website offering non-existent loans. Large upfront fees were being paid by consumers who subsequently never received the loan they were promised. The consumers involved were vulnerable as they were unable to access credit through “high street” sources. Nairn CAB received complaints from local victims and promptly notified Trading Standards and an investigation was launched. The culmination was that the telephone number that was central to the operation was put out of use by the telecommunications provider and so the scam could no longer operate effectively.

NPS (Legal Highs)

- 1.12. Whilst incidents directly reported have been nil, and those indirectly reported have been limited to just one, we are certainly well aware of the issue and have been liaising with Police Scotland and NHS Highland with regard to the level of incidence and our collective thoughts to tackle the problem, as it is perceived nationally, that may arise.
- 1.13. Of note is internet sales and we are aware that whilst a fixed retail premise exists in the area, the level of internet retailers cannot be quantified.
- 1.14. Trading Standards and Police Scotland have identified one such internet retailer and have made a test purchase of NPS products. These were examined in terms of method of sale, labelling and content but did not lead to action that would prevent supply.
- 1.15. Work continues, in light of weakness in the current legislative regime, to explore methods of regulatory success in tackling the supply of such products, and also, in conjunction with NHS Highland, to gain a better understanding of supply methods, use and level of use in the area.

Doorstep Selling/ Cold Calling

- 1.16. Tackling illegal activity by rogue traders who call at the doors of unsuspecting households is a national priority.
- 1.17. This is a shared national priority with Police Scotland and the efforts of both enforcement bodies are very much joined up within the Highland area.

- 1.18. In 2014-15 Trading Standards statistics show that highland households lost £175,000 to those involved in doorstep crime, whilst at the same time losing highland businesses a potential £336,000. This was as a result of 209 complaints being made, an estimated 1/10 of the actual problem.
- 1.19. Enforcement activity in the year was in the main a joint activity with Police Scotland and included participation in 2 national operations focussing on prevention, intelligence, enforcement and reassurance, 4 local operations concentrating on activity on our road networks, and the creation of Cold Call Control Zone toolkit, accessed via the Highland Council website, designed for community groups to empower their area to tackle the problem.
- 1.20. The activities led to seizures of goods, arrests, formal warnings, joint reports to the Procurator Fiscal, disruption to organised criminal activities, referrals to HMRC, over 300 businesses being given Trading Standards advice and a sound message given out that jointly we will protect those who need it most and challenge those who enter the Highland Council area for the purposes of committing doorstep crime.

Adult Protection

- 1.21. Legal obligations are placed upon Trading Standards surrounding the protection of adults, mainly through our enforcement work linking to the financial harm suffered by those that have been identified as the victims of doorstep crime, scam mail, telephone calls and e-mail.
- 1.22. We have worked closely with the Adult Protection Committee and its Financial Harm sub-group, sitting as members of the sub-group and 'special advisor' to the Committee.
- 1.23. Financial harm of adults can take various forms, but it has been established that harm through doorstep crime, scam mail, telephone calls and e-mail is a major contributor to the problem.
- 1.24. A system of referral of suspected adults who are vulnerable has been established via Police Scotland, where those suspected are identified to NHS Highland as being at risk and requiring further action.
- 1.25. Although a relationship in its infancy, operations have taken place regarding identifying those at risk on 'suckers lists', identification of victims of scam telephone calls, preparation of joint Trading Standards/Police Scotland staff training materials for NHS staff engaged with adults in their home, and a financial harm awareness leaflet for general distribution has been produced.
- 1.26. Work is ongoing, particularly to ensure that Trading Standards can be an avenue to use by NHS staff, however given the number and complexity of that organisation, we are still some way from receiving the vital intelligence needed to help us tackle those who offend such victims.

Taxis and Private Hire Car Regulation

- 1.27. There were 6 reports to the Licensing Committee within the year and it was found that the penalty points being allocated to licensees were increasing.
- 1.28. Ongoing investigations at the time uncovered that many licence holders appeared to be unaware of the Penalty Points System and its operation.
- 1.29. This resulted in a refresh of our business guidance and this being sent to all licence holders. A presentation was also given to the Licensing Committee to assist Member understanding of the enforcement activity conducted by Trading Standards and the operation of the Penalty Points System.

Civil Enforcement

- 1.30. In addition to the enforcement of criminal law, Trading Standards authorities also have a duty to enforce civil law provisions that protect consumers. These include measures governing:
- the quality and fitness for purpose of goods
 - the quality of consumer services such as home improvement and car repairs
 - the prohibition of unfair terms and conditions in consumer contracts
- 1.31. Highland prioritises this work, recognising the key role these requirements play in ensuring a fair deal for both consumers and reputable businesses. Each year, a wide range of investigations into such matters are carried out. Often, these investigations are multi-pronged: in addition to the enforcement activity aimed at ensuring the businesses involved treat consumers fairly in the future, advice and assistance is also supplied to consumers, usually resulting in refunds and other remedies to solve their individual problems.
- 1.32. One example from the year was an investigation into Green Deal Rewards, a company that offered energy efficiency advice and services. The main problems were that the business would take payment for an initial household energy performance survey and then fail to carry out the necessary work, or that very lengthy delays would ensue. A total of 92 complaints were received from Highland consumers. After officers investigated and conducted detailed interactions with the company, credit card providers and others, refunds totalling £10,142 were achieved for Highland householders. The company ceased operations in the Highlands and finally went into liquidation.

Business Advice

- 1.33. Providing advice to local businesses on compliance with consumer and trading laws is a fundamental part of the work of Trading Standards. On a daily basis, officers provide advice that is both sound in law and practical and realistic in terms of the trading circumstances. This is carried out in a range of ways, including “reactively” such as responding to specific enquiries received by phone or email, or discussing issues that arise during an in-person interaction with business such as during an enforcement visit. Additionally, “proactive” planned activities are carried out such as:
- Targeted mailshots with detailed guidance and self-assessment questionnaires for return
 - Sector-specific newsletters
 - Seminars and similar set-piece events with expert speakers and discussion forums
- 1.34. Examples of each of these from 2014-15 are illustrated below.
- 1.35. A mailshot was sent to over 800 local businesses likely to be affected by significant changes to the law governing “distance” (mainly online) sales and “off-premises” sales (i.e. sales where the consumer agrees to buy in their house with a representative from the selling business present). It included detailed and practical guidance to the new Regulations and a self-assessment questionnaire on compliance. A detailed report on this project is included in Annex 7.
- 1.36. For the last few years, bi-annual newsletters have been distributed to the local car trade. This was continued in 2014-15 with over 100 businesses receiving the e-newsletters. Second hand cars are consistently the most-complained-about consumer

product and the rules and regulations for car dealers and servicers can be detailed and complex. Accordingly, these newsletters tend to be well-received in the trade as they alert businesses to current and upcoming issues and seek to present the information in an accessible form. See Annex 7 for an example of a newsletter.

- 1.37. The main set-piece business advice event of the year was a seminar for local solicitors and estate agents on changes to the consumer law that governs the sale of houses and other properties. Over 90 business attendees saw a presentation by the main speaker from the Competition and Markets Authority (CMA) – a leading UK expert in the field – supplemented by local speakers from Highland Council's Trading Standards and Planning Teams covering local issues. The project report in Annex 7 has more information on the seminar.

Highland Consumer Partnership (see [Highland Consumer Partnership](#) in Annex 7 for more details)



- 1.38. The partnership, still the only one of its kind known in Scotland and first brought to members' attention in a report¹ to the Council's TECS Committee in November 2013, continues to develop and is frequently referred to as an example of good practice.
- 1.39. The aim of this partnership between Highland Citizens Advice Bureaux and Trading Standards is to reduce consumer detriment and encourage fair trading, further details of which can be found at <http://www.highlandconsumerpartnership.org/>.
- 1.40. Interest in the partnership from other Scottish Local Authority Trading Standards services and by the Trading Standards Scotland team in COSLA has been considerable, with the toolkit developed by Citizens Advice Scotland being made available to other local authorities in the hope of promoting similar partnerships elsewhere.

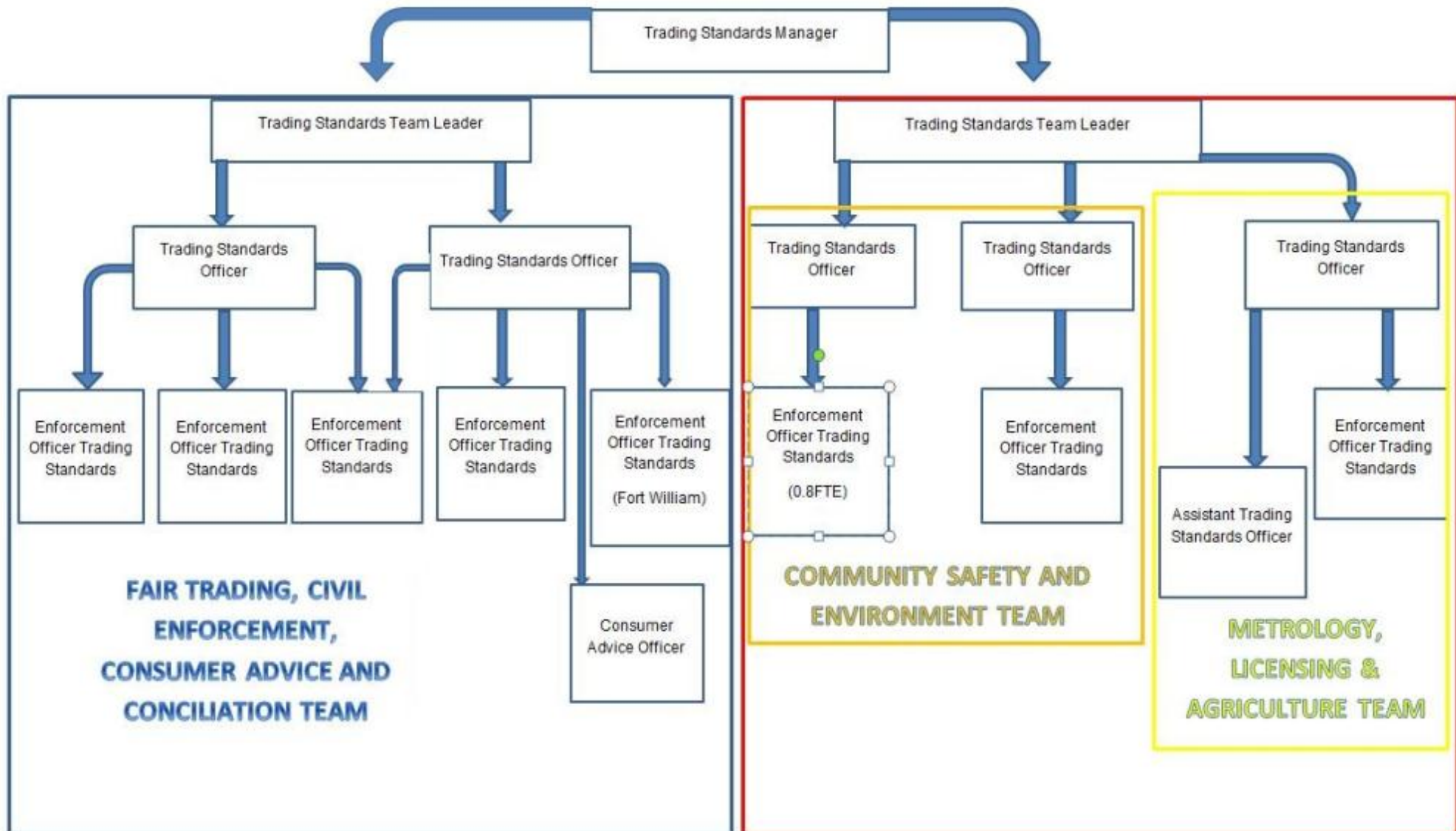
Petroleum & Explosives Licensing

- 1.41. The legislation that puts in place the permissioning regimes controlling the storage of petrol at filling stations and the storage of explosives were overhauled during 2014/15 with new regulations made under the Health & Safety at Work Act coming into force in October 2014.
- 1.42. Trading Standards both administers the relevant certification and licensing systems and enforces the legal provisions within the scope of these new regulations.
- 1.43. A review of the administrative arrangements to permit the application, renewal and granting of certificates and licences, together with training staff on the new provisions was successfully undertaken.
- 1.44. One aspect of the new law is to permit the new Petroleum Storage Certificates of which there are 146 currently in force, to be granted in perpetuity or until the site becomes redundant, with an annual fee payable during its life which is payable for periods up to ten years at a time.
- 1.45. Explosives licences, of which there are currently just under 50 in Highland, can now be granted for periods up to 5 years.

¹ www.highland.gov.uk/download/meetings/id/23747/item9tec8113pdf

Annex 1 Structure Diagram

TRADING STANDARDS



Annex 2- Tabulated Statistics

1. Customer Satisfaction

a. Citizens Advice Consumer Service

Citizens Advice Consumer Service delivers 1st Tier consumer advice on behalf of Council Trading Standards services as part of a UK Government funded scheme.

Ensuring that this service meets the needs of Highland Consumers is an important factor in maintaining this relationship. In order to satisfy this objective Trading Standards across Scotland participate in an annual survey.

The most recent survey results provided by Citizens Advice were produced in early 14/15 have been reproduced in summary below.

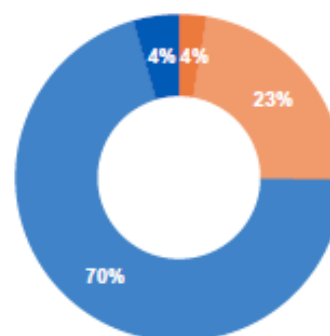
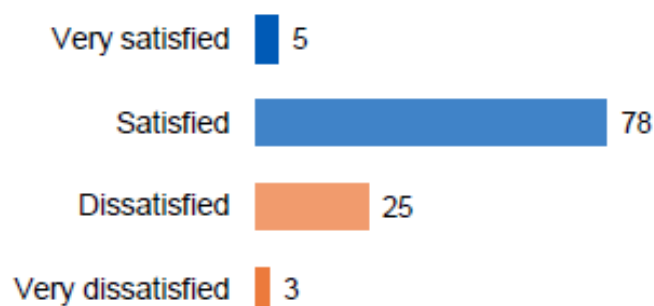
Consumer Service partner satisfaction survey: Wave 3

To find out what our partners think about the consumer helpline, we conducted a survey. In February – March 2015, 125 representatives from partner organisations took our online survey asking how they felt about different aspects of working with the Consumer Service as a delivery partner.

General

75% satisfied with Consumer Service as delivery partner

Overall, 83 out of 111 were 'very satisfied' or 'satisfied' with the Consumer Service as a delivery partner.



79% satisfied with accuracy of information provided to consumers

98 out of 124 were 'very satisfied' or 'satisfied' that information provided to consumers is accurate.

58% satisfied with depth of advice to consumers

72 out of 124 were 'very satisfied' or 'satisfied' that advice provided to consumers is full and complete.

35% satisfied with quality of case notes

43 out of 122 were 'very satisfied' or 'satisfied' with the quality of information in case notes and data fields.

39% satisfied with information about traders and suppliers

48 out of 122 were 'very satisfied' or 'satisfied' with the quality of information collected about traders and suppliers.

b. Highland Council Trading Standards

Trading Standards deal with those cases referred to us by Citizens Advice Consumer Service and other agencies, as well as a small number who come to us direct.

A sample of all those who make use of these services is the subject of an annual customer satisfaction survey. In 2014/15 retaining the much larger sample size of service users first used last year and based on the same survey questions used previously (listed below) produced the following very creditable results: -

1. How satisfied were you with our overall level of service?
2. Did we give you information/advice that was easy to understand?
3. How informative did you find our staff?
4. Did we treat you fairly at all times?

Year	Satisfaction Score (Former NPF PI)	Forms sent out	Forms returned	Return Rate
2014-15	88%	438	131	30%
2013-14	90%	614	204	31%
2012	85%	169	56	33%
2010	87%	79	28	35%
2008	72%	c. 70	21	30%
2005	91%	c. 80	27	33%

2. Consumer Detriment and Post Intervention Redress²

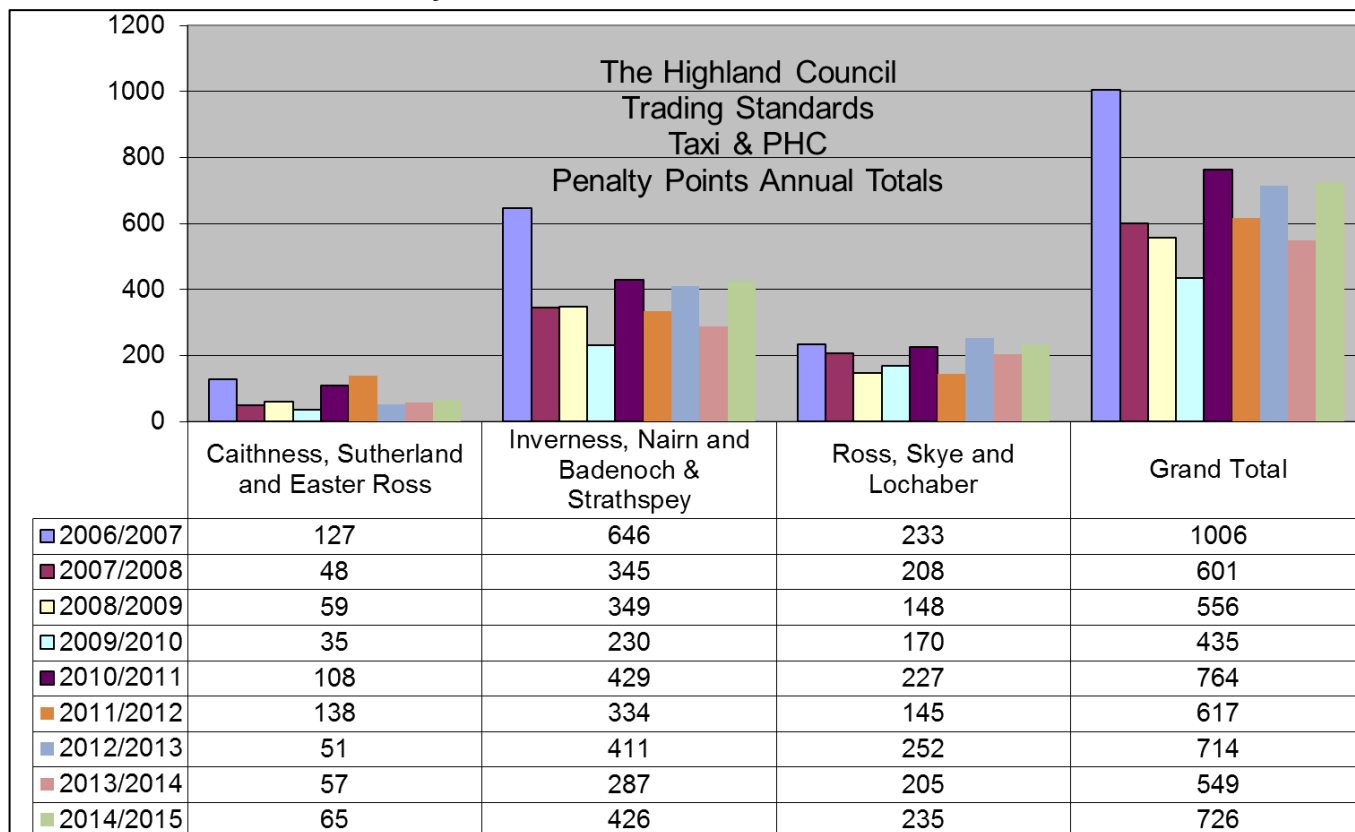
	2014/15
Total contract price of product or service complained about	£9,491,695
Total detriment suffered by complainer	£3,398,171
Total contract price of product or service where Trading Standards were involved in some degree of intervention	£588,229
Total detriment suffered by complainer where Trading Standards were involved in some degree of intervention	£190,850
Total redress obtained as result of Trading Standards intervention	£134,445

3. Tourism Related Complaints⁵

Tourist Complaints	2014/15
Complaints received against Highland based businesses	94

² These statistics are more fully explained in the relevant sections of the report and should not be read in isolation.

4. Licensed Taxi & PHC Penalty Points Data



5. Metrology

a. Risk Matrix³

Impact of Risk ↓	←Potential for failure→				
	Very likely	Likely	Possible	Unlikely	Very unlikely
Very high	Medical Weighing Equipment Weighbridges and scales ≥5000kg	Liquid fuel tanker meter measuring systems (LFTMMS)		Liquid fuel measuring instruments (LFMIs)	
High	<i>Retail Outlets</i>		Non-automatic weighing instruments ≤30 kg <i>Packaging plants & Importers of packaged goods & Bulk products by weight or volume</i>		
Low		Non-automatic weighing instruments >30 kilograms but <5 tonnes	Automatic weighing instruments		Intoxicating liquor measuring instruments
Very low					

³ [Source - National Measurement and Regulation Office](#)

b. Justification for Position in Risk Matrix

Equipment type	Failure rate	Economic Value	Political factors	Other Issues	Position on Matrix
Medical Weighing equipment	15%		Political embarrassment if widespread inaccuracies were discovered.	Possible threat to life if used to prescribe doses of medication or anaesthetic.	Very likely to fail with very high impact of failure
Weighbridges & Scales less than 500kg	16%	High value of scrap metal. ⁴ 5.6 Billion to UK economy Identified as giving the largest detriment to both consumers & business	High cost of hiring testing unit makes this equipment vulnerable to neglect	⁵ Importance to public increases when linked to road safety.	Very likely to fail with very high impact of failure
Liquid Fuel Tanker Meter Measuring systems	10%	High value product	Fuel Poverty.	Product cannot be seen by consumer.	Likely to fail with very high impact of failure.
Liquid Fuel Dispensers	2%	High value & High volume product. ⁶ 45 Billion to UK economy	Value to UK economy would cause political embarrassment if found to be not accurate.	Product cannot be seen by consumer.	Unlikely to fail with very high impact of failure.
Non-Automatic Weighing Instruments more than 30kg but less than 5 tonnes	11%				Possible failure with low impact of failure
Non-Automatic Weighing Instruments less than 30kg	6%	High Volume			Unlikely to fail with high impact of failure
Automatic Weighing Instruments	3%				Possible failure with low impact of failure
Intoxicating Liquor Measuring Instruments	1%				Very unlikely to fail with low impact of failure

⁴ British Metals Recycling Association

⁵ 2006 Measuring Up report; National Consumer Council.

⁶ Forecourt Equipment Federation

c. Summary of Weights and Measures Act 1985 section 70 Annual Report

S70 Return form for 1st April 2014 to 31 March 2015					
Local Weights and Measures Authority:		Highland Council			
Chief Inspector of Weights and Measures:		Gordon Robb			
Number of Inspectors of Weights and Measures?					8
Number of full time equivalents (FTE) of staff engaged in Weights and Measures work?					1.8
Number of staff registered and actively studying for the TSI Legal Metrology Module?					0
Measuring compliance of weighing and measuring equipment and pre-packages:					
Category of Equipment	Actual or estimated no. of pieces of equipment	No. inspected	No. verified	No. found incorrect and 28 day notice issued	No. found incorrect & verification mark removed
Liquid fuel dispensers	1085	0	8	0	0
Liquid fuel tanker meter measuring systems	44	32	0	0	0
Weighbridges and scales $\geq 5t$	97	69	1	6	2
Non-automatic weighing instruments $\leq 30kg$	535	3	0	0	0
Non-automatic weighing instruments $> 30kg < 5t$	190	68	0	0	0
Automatic weighing instruments	7	0	0	0	0
Intoxicating liquor measuring instruments	2214	0	0	0	0
Measuring metrological compliance in transactions.					
Type of business	Number of businesses liable to inspection	Number of businesses due this year	Number of businesses visited	Number of businesses compliant	Number of businesses your LA assisted into compliance
Packaging plants	16	16	16	14	2

6. Formal Enforcement Actions

Action	No.
Cases Reported to Procurator Fiscal	6
Cases where Enterprise Act 2002 Court Order Sought	1
Cases where Enterprise Act 2002 Formal Undertaking Obtained	1
Cases where Enterprise Act 2002 Informal Assurance Obtained	2
Cases where Formal Written Warning issued	6
Cases Report to Licensing Committee	8
Number of licensed Taxis/ PHC suspended from use.	126
Cases where Websites Taken Down	5

Annex 3 - Review against the Operational Plan

- 1.1. The Trading Standards Operational Plan for 2014/15 was approved by the Highland Council PDI Committee and it is against this that the proactive and preventative work stream activities undertaken during the year should be measured.
- 1.2. The plan along with a brief assessment of outcomes achieved and links to relevant supporting documents is reproduced in this annex
- 1.3. In addition to the specific work detailed within the plan it is also worth reproducing the overarching service commitments that have been agreed and give direction to and prioritise our work.
- 1.4. These commitments are reproduced below.
 - **Work with the Scottish Government, businesses and communities to reduce the underage sales of tobacco to young people and also working with our partners at HMRC to combat the supply of counterfeit and other illicit tobacco products.**
 - **Work with partners, especially the Police, other Local Authorities, the UK and Scottish Governments, to improve community safety by working to reduce: crime and fear of crime; e-commerce and doorstep related crime.**
 - **Work with partners, including CitACS and other UK Trading Standards Services, to reduce the economic detriment suffered by consumers as a result of breaches of civil and criminal legislation committed by businesses based in and who do business in Highland**
 - **Develop partnership with the Citizens Advice Bureaux network and Citizens Advice Scotland on local consumer empowerment through joint campaigns and close working on consumer advice and assistance.**
 - **Work with partners, especially other UK Trading Standards Services, the UK and Scottish Governments, to improve community safety by reducing the number of unsafe products offered for supply.**
 - **Work with business and our partners, in particular the Police, HMRC, The Intellectual Property Office and other UK Trading Standards Services to protect legitimate business interests and consumers by combating Intellectual Property Crime and reduce the availability of counterfeit and illicit products.**
 - **Work with the tourist industry and our partners Visit Scotland to maintain the reputation of the Highlands as a tourist destination by responding effectively to complaints about visitor accommodation and service standards.**

Annex 3 - Review against the 2014/2015 Operational Plan		
Main Heading	Sub-heading	Review
Community Safety	<p>Doorstep Selling Crime (<i>Statutory Function; National TS Priority; THC Programme - Working together for strong and safe communities</i>)–</p> <p>To continue working with partner organisations, community representatives and the business community to address the existing levels of doorstep selling crime in Highland and continue to develop operational practices to reduce both the incidence and the fear of such crime.</p> <p>Including:-</p> <ul style="list-style-type: none"> • A six month project to identify priority target areas and work with community groups/organisations to promote, evaluate and facilitate the establishment of new Cold Call Control Zones (CCCZ) in Highland; <p>Target: Establishment of one or more new CCCZ by 30 September 2014</p> <ul style="list-style-type: none"> • project to promote the selection and use of reputable business engaged in the home improvement/ construction sector by working with the Scottish Government supported Construction Licensing Executive and local businesses to promote the ‘Licensed to Trade’ scheme. <p>Target: Increase the number of licensed businesses in Highland; Undertake promotional activity to increase consumer awareness of the scheme in Highland. [Note: Target dates to coincide with CLE target agreed with SG]</p>	<p>Outcome 1</p> <p>Two new zones were established. Muirtown Community Council operating in the Highfield and Blarmore Avenue area, and Dalneigh Community Council operating in the St Margaret, St Mungo, St Andrew, St Fergus and St Valery area. There are now three CCCZs operating within Inverness with approximately 700 households involved.</p> <p>Outcome 2</p> <p>A further project made possible through the resources of the Graduate Intern scheme, to develop a CCCZ Toolkit for community use, was successfully completed in early 2015/16. (See CCCZ Toolkit project report) in the Annex 7.</p> <p>Outcome 3</p> <p>Though contact with CLE established and discussions took place regarding promotional activity the CLE were wound up by the Scot Government effectively ending the project.</p>

Annex 3 - Review against the 2014/2015 Operational Plan		
Main Heading	Sub-heading	Review
	<ul style="list-style-type: none"> The continued participation in multi-agency operational activities targeting doorstep crime – Target: Complete 4 joint operations by 31 March 2015. 	<p>Outcome 4</p> <p>4 joint operations took place. Further detail can be found in Community Safety Team Joint Working and Multi-Agency Operations report in the Annex 7</p>
Community Safety	<p>Age Restricted Products (<i>Statutory Function; SG Priority for Tobacco Products; THC Programme - Working together for strong and safe communities & Working together for our children and young people</i>)–</p> <p>To reduce the incidence of age restricted products getting into the hands of young people;</p> <p>Specifically</p> <ul style="list-style-type: none"> In partnership with Police Scotland and other partner organisations to continue to recruit and retain young volunteers to carry out test transactions, improve intelligence gathering and build on the level of proactive test transactions of tobacco and other age restricted products from previous years. Target: Participate in at least 6 test transactions operations. In partnership with NHS Highland and neighbouring LA's to participate in a “proxy sales” retailer awareness poster campaign. Target: – Production and distribution of posters to 400 retailers 	<p>Outcome 1</p> <p>Only 3 out of the planned 6 operations have taken place during the year with one further operation being abandoned due to volunteer being unavailable on the day. Details of the operations can be found in Community Safety Team ‘Age Related Sales’ report in the Annex 7).</p> <p>Outcome 2</p> <p>Posters produced and distributed as planned. (see Tobacco Proxy Sales Campaign in the Annex 7)</p>
Community	Product Safety (<i>Statutory Function; National TS Priority; THC Programme - Working together for strong and safe communities</i>)–	

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Main Heading	Sub-heading	Review
Safety	<p>Increase product safety standards locally by undertaking an effective market surveillance programme and by responding effectively to RAPEX (EU based product safety risk system) and other recognised non-food safety notification mechanisms to ensure the removal of offending products from the market.</p> <p>Including</p> <ul style="list-style-type: none"> The regular interrogation of all relevant non-food safety notification mechanism portals. Target: Interrogate RAPEX and other portals weekly. Participation in an agreed programme of proactive EU, UK, Scotland wide market surveillance projects selected from those proposed by the SCOTSS and National Product Safety Group which have been assessed to be relevant and beneficial to Highland consumers and businesses. Target: Complete programme Undertaking a programme of locally identified market surveillance projects which have been assessed to be relevant and beneficial to Highland consumers and businesses. Target: Complete programme (see Operational Team Plan for details). To maintain the effective surveillance of Highland based producers (i.e. Manufacturer, Importer). Target: Maintain an accurate and up to date record of producers and interact with all newly identified producers and 100% of producers classified as high risk. 	<p>Outcome 1 Initiated and ongoing</p> <p>Outcome 2 One project selected (See 'Phone/Laptop Chargers' report' in Annex 7).</p> <p>Outcome 3 Cosmetic products project undertaken. Interaction with 28 local with only 50% being compliant with new legal requirements on first contact. (See 'Cosmetic Products' report' in Annex 7).</p> <p>Outcome 4 100% of newly identified and high risk producers were visited; High levels of compliance were found.</p>

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Main Heading	Sub-heading	Review
Community Safety	<p>Petroleum & Explosives Licensing (<i>Statutory Function; Local Priority; THC Programme - Working together for the economy & Working together for strong and safe communities</i>)– Maintain and improve where necessary public safety, by ensuring high overall compliance levels of operational filling stations and ensure that redundant Petrol Filling Stations that present a significant safety risk are safely decommissioned in accordance with Council standards.</p> <p>Including</p> <ul style="list-style-type: none"> The routine inspection of existing licensed petroleum storage premises that are assessed to present a higher risk. Target: Conduct at least one inspection every two years for higher risk sites. The provision of additional support where necessary for existing and proposed new petrol filling stations serving remote rural communities. Evidence: Number of sites where additional support is provided. Details of any wider initiatives to support remote rural sites. Greater emphasis during the year is to be placed on decommissioning activity and reducing the number of abandoned/mothballed sites. Evidence: Number of non-operational (i.e. abandoned/mothballed) sites decommissioned. 	<p>Outcome1 100% of planned inspections completed. The availability of suitably qualified electrical contractors to allow site operators to satisfy the required certification of petrol storage sites remains a concern.</p> <p>Outcome 2 Ongoing support for Helmsdale community petrol filling station development project.</p> <p>Outcome 3 1 previously mothballed site was permanently decommissioned. A further 2 operational sites were decommissioned on cessation of operation. A further 12 sites non-operational sites have stated their intention to decommission. No immediate public safety concerns were recorded, but pressure to permanently decommission will continue to be applied where there is no apparent intention to re-open.</p>

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Main Heading	Sub-heading	Review
Community Safety/ Fair Trading	<p>Environment (<i>Statutory Function; Local Priority; THC Programme - Working together for the economy & Working together for strong and safe communities</i>)- To examine the extent to which any environmental and economic benefit claims made in relation to consumer products have or are likely to cause consumers to be misled or confused; and to act accordingly.</p> <p>Including</p> <ul style="list-style-type: none"> Evaluate local compliance with recently implemented revised construction products legislation in relation to energy saving products and specifically the identification of relevant Highland based suppliers and the evaluation of a sample of products available. <p>Evidence: Project Report</p>	<p>Outcome 1</p> <p>11 producers identified with 5 types of product being inspected. Non-compliance was found in 3 products, one of which was referred to the Primary Authority. Further detail can be found in 'Construction Products' report in Annex 7.</p>
Community Safety/ Fair Trading (Metrology)	<p>Taxis & Private Hire Car Operation (<i>Implied Statutory Function; Local Priority; THC Programme - Working together for strong and safe communities</i>)- Maintain and where necessary improve existing public safety and fair trading standards of Taxis & PHC via the rigorous application of the Penalty Points System and ensuring the accurate calibration of taximeters.</p> <p>Specifically</p> <ul style="list-style-type: none"> Licensed vehicle standards will continue to be monitored within the 	<p>Overview</p> <p>6 licensees were the subject of reports to the Licensing Committee which coincided with an increase penalty points being allocated. to licensees were increasing. See Annex 2 Taxis for details of Penalty Point allocation.</p> <p>All licensees were as a result reminded of</p>

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	<p>scope of the penalty points system and continued reduced 'on rank' monitoring will take place.</p> <p>Target: Conduct 22 'on rank' inspections in the year.</p> <p>Evidence: Monthly analysis of penalty points system and associated enforcement action taken;</p> <ul style="list-style-type: none"> To participate in intelligence led multi-agency enforcement activity. <p>Evidence: Number of multi-agency activities undertaken.</p>	<p>their legal obligations and the penalty points system operation. The Licensing Committee were also briefed on the situation.</p> <p>Outcome 1 21 on rank inspections were conducted, involving 87 vehicles and the issue of 3 statutory notices.</p> <p>Outcome2 Participation in 3 multi-agency activities took place which received positive feedback from the Taxi/PHC trade. Although minor non-compliances found, the activities provided a good opportunity to liaise with those involved in the trade and the giving of business advice.</p>

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Main Heading	Sub-heading	Review
Fair Trading (Metrology)	<p>Weighing & Measuring Equipment Accuracy <i>(Statutory Function; Local Priority; THC Programme- Working together for the economy & Working together for strong and safe communities)-</i></p> <p>To continue to undertake the market surveillance of equipment in use for trade that is assessed to present the greatest risk of economic detriment to consumers and business and to provide an efficient high quality calibration and weighing & measuring equipment requalification service to business.</p> <p>Specifically</p> <ul style="list-style-type: none"> Metrological inspection will continue in relation to retail petrol filling stations and Bulk Fuel supplies, but will, given the recent history of compliance, take place at a reduced level. Target: Inspection of 100% of retail filling stations where intelligence received indicates a problem; Inspection of 50% of all bulk fuel suppliers. Inspection of producer's premises will continue with additional market surveillance to identify new premises. Target: Interaction with 100% of nationally classified high risk premises. Inspection of weighbridge premises will continue. Target: Inspection and certification of 100% of weighbridges required for merchant shipping purposes and inspection of 70% of all others. We will continue our Notified Body status and respond to requests for verification/re-qualification of applicable weighing and measuring equipment. Target: Verify/re-qualify equipment in 100% of requests made by local business. 	<p>See Annex 2 metrology</p> <p>This Annex provides some basic data and the risk analysis upon which the work undertaken was based.</p> <p>Outcome 1 In the absence of any intelligence / complaints no metrological inspection of petrol fillings stations was carried out. 63% of bulk fuel measuring instruments (i.e. domestic heating oil tankers) were inspected and were all found to be compliant.</p> <p>Outcome 2 100% of known high risk average quantity producers were inspected, compliance levels were 100%. Market surveillance established 3 more producers, further market surveillance is required.</p> <p>Outcome 3 100% of Merchant shipping weighbridges were inspected and found compliant. 75% of others were inspected with further action required on 5 weighbridges.</p> <p>Outcome 4 No requests were made within the year.</p>

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Main Heading	Sub-heading	Review
Fair Trading	<p>General Fair Trading – <i>(Statutory Function; THC Programme - THC Programme- Working together for the economy & Working together for strong and safe communities)-</i></p> <p>To monitor general fair trading law compliance levels, by targeting available resources on selected areas of business that available intelligence would indicate problems exist and by the provision of advice and enforcement action where necessary to achieve compliance.</p> <p>Including</p> <ul style="list-style-type: none"> Investigations initiated by complaints and other information obtained indicating breaches of Fair Trading legislation. Compliance advice for traders and enforcement action taken as necessary. Evidence: Number of investigations and outcomes. Hold a one-day seminar for solicitors and estate agents on the application of Trading Standards laws to house and other property sales. A survey of local businesses in 2013-14 revealed a strong demand for a seminar to explain and discuss recent changes to the law, with the repeal of the Property Misdescriptions Act and its replacement by general fair trading regulations. Target: Hold seminar with at least 50 delegates. Evidence: Attendee assessment Implement Primary Authority Partnerships. Considerable background work has been carried out on the implementation of “Primary Authority Partnerships” with local companies that trade across Scotland or the UK. Several businesses have been identified as appropriate for Primary Authority Partnerships. A 	<p>Outcome 1 See Investigations Report 2014 -15 in Annex 5</p> <p>Outcome 2 Seminar with speakers from UK Competition and Markets Authority, HC Trading Standards and Planning, held at ICTFC Stadium 4th Dec 2014. 90+ delegates including representatives from solicitors firms and Estate Agency across the Council area attended. The feedback received suggests that this was a successful event, and that those who attended were very satisfied with the seminar as whole, the speakers and the information presented.</p>

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	<p>Partnership with one business is expected to “go live” in 2014-15 and others will be considered. Target: Implement one primary authority partnership.</p> <ul style="list-style-type: none"> • Work with the Development and Infrastructure Service’s Economy and Regeneration Team to develop a “joined up” approach to the provision of advice and assistance to local businesses, in particular in relation to e-Commerce, intellectual property and the tourist trade. Evidence: Annual report. • Further develop existing working relationships with the Development and Infrastructure Service’s Planning Enforcement team and Building Standards officers to tackle rogue builders and problems surrounding property sales and use. Evidence: Annual report 	<p>Outcome 3 No progress on this objective was made as a result of legislative changes that effectively reduced the attractiveness of such a Partnership with those businesses that had previously expressed an interest.</p> <p>Outcome 4 Some progress made, through meetings with Business Gateway team, but further development needed.</p> <p>Outcome 5 Successful working relationships have been developed during the year with the planning enforcement team, which has resulted in the joint development of facilities, protocol and officer training for video recorded witness/ suspect interviews.</p>

Annex 3 - Review against the 2014/2015 Operational Plan		
Main Heading	Sub-heading	Review
Fair Trading	<p>Tourist Accommodation & Services – <i>(Statutory Function; Formal Partnership Agreement; THC Programme - Working together for the economy & Working together for strong and safe communities)</i></p> <p>To ensure that a high level of compliance with fair trading law is achieved across the tourism sector by improving the availability of relevant advice to business; the proactive assessment of online marketing information provided by tourist related businesses and by facilitating in partnership with Visit Scotland, the receipt and effective resolution of complaints, including the taking where necessary of enforcement action.</p> <p>Specifically</p> <ul style="list-style-type: none"> Carry out a detailed and systematic analysis of complaint information from VisitScotland and Citizens Advice Consumer Service, with a view to detailed enquiries into possible problem traders and enforcement action as appropriate. Compare complaint numbers and types with information from previous years to identify trends. <p>Evidence: Production of analysis report.</p> <ul style="list-style-type: none"> Explore options for joint working with the tourism officers within the Development and Infrastructure Service’s Economy and Regeneration Team <p>Evidence: Annual report.</p> <ul style="list-style-type: none"> Carry out a project on the hotel and bar trade in relation to pricing and spirit substitution. Intelligence suggests that both tourists and local consumers suffer detriment in relation to these issues. <p>Target: Select and interact with a representative sample of at least 50 licensed premises.</p> <p>Evidence: Project Report</p>	<p>Outcome 1 See Analysis of Tourist Complaints 2013-2014 in Annex 2</p> <p>Outcome 2 Contact initiated late 14/15, but progress delayed until 15/16</p> <p>Outcome 3 53 visits carried out by end Jan 2015. Disappointing results requiring significant follow-up action. See Pub Price Project Report in Annex 7</p>

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Main Heading	Sub-heading	Review
Fair Trading	<p>E-Commerce – <i>(Statutory Function; Scottish and UK National Priority; THC Programme - Working together for the economy & Working together for strong and safe communities)</i></p> <p>To improve the service’s capacity to investigate and regulate online commercial activity including scams etc. and by the provision of advice and the taking of enforcement action where necessary to improve the compliance levels of online business both based in Highland and those doing business in Highland.</p> <p>To continue to pursue and bring into compliance e-commerce businesses that are failing to comply with the law relating to the delivery of goods and services to remote communities.</p> <p>Specifically</p> <ul style="list-style-type: none"> • SCOTSS Delivery Charges Project. A consortium of North local authorities, led by Highland, will continue to investigate information from the Citizens Advice Scotland survey on unfair delivery charges. Several hundred traders have been identified for investigation. <p>Evidence: Project Report</p> <p>E-Commerce (cont’d)</p> <ul style="list-style-type: none"> • Promote the Statement of Principles for Parcel Deliveries which lays out best practice for internet delivery. This will be carried out through direct contact with businesses during investigation of complaints and other enforcement activities and through exploring the options for a possible “trusted trader” type scheme which encompasses the Principles. 	<p>General</p> <p>See Investigations Report 2014 -15 and Consumer Complaints Report 2014 -15 in Annex 4. Both contain relevant information on the topic.</p> <p>see Internet Sales and Delivery Problems report in Annex 7</p> <p>Outcome 1</p> <p>200+ businesses received packs including self-assessment questionnaire, guidance and Statement of Principles. Some returns from other authorities. Work completed, findings being compiled.</p> <p>Outcome 2</p> <p>Attended roundtable event in London looking at potential for development of Trustmark type solution.</p>

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Main Heading	Sub-heading	Review
	<p>Evidence: Annual Report</p> <ul style="list-style-type: none"> Continued engagement with a wide range of interested parties to continue to explore ways to ensure that Highland consumers and businesses get a fair deal on delivery. These stakeholders include: the UK Government, the Scottish Government, British Retail Consortium, Citizens Advice Scotland, Federation of Small Businesses, Trading Standards Institute, carriers. <p>Evidence: Annual Report</p> <ul style="list-style-type: none"> Lead a Scotland-wide project on the rapidly expanding marketplace of “s-commerce”, i.e. selling through social media such as Facebook. The project will involve engaging with businesses and selling groups, providing guidance and assistance on compliance with e-Commerce legislation and taking action where necessary against sellers that fail to comply. <p>Evidence: Project Report</p> <ul style="list-style-type: none"> Participate in a Scotland-wide project which seeks to tackle the growing problem of websites which charge for services which can be obtained directly from a Government agency at no extra cost, e.g. DVLA, HMRC. <p>Evidence: Project Report</p>	<p>See body of report for details</p> <p>Outcome 3 Project commenced and ongoing, currently in set-up phase with main operational work commencing Nov 2014 and completion due in 15/16. Nine local authorities signed-up to participate. HC extranet to be trialled re shared information submission and storage.</p> <p>Outcome 4 Work completed and submitted to Project co-ordinator. See Project Report in Annex 7</p>

Annex 3 - Review against the 2014/2015 Operational Plan		
Main Heading	Sub-heading	Review
Fair Trading	<p>Credit – <i>(Statutory Function; Local TS Priority; THC Programme - Working together for strong and safe communities)</i></p> <p>To continue to target undesirable lending, debt management and debt collection activities and to assimilate recent changes in this complex area of law to ensure the continued competency of officers to provide good quality advice to businesses and to bring them into compliance where necessary by enforcement action.</p> <p>Specifically</p> <ul style="list-style-type: none"> Further develop joint working with Highland Council Money Advice and the Citizens Advice Bureaux to increase the intelligence gathered regarding problems with high risk high cost lending (such as payday loans and home collected credit) and ancillary credit activities such as debt collection and debt management. Target: implement intelligence-gathering questionnaire with Council Money Advice Service and at least four Citizens Advice Bureaux. Carry out follow-up actions in relation to the 2013-14 SCOTSS project on the advertising of Payday loans which is due to be completed in March 2014. Evidence: Project Report Ensure full compliance with the requirements of Pawnbroking laws by exploring the contention that “Buy Back” schemes are non-compliant pawnbroking schemes masquerading as second hand dealing, taking action and publicising the issues as appropriate. Evidence: Project Report 	<p>General</p> <p>See Consumer Credit Report in Annex 7</p> <p>Outcome 1 HC Money Advice are trialling questionnaire, interim analysis of this will inform approach to CABx</p> <p>Outcome 2 Discussions with FCA have led to it taking up the issue. FCA has met with industry reps and is considering all options, including incorporating “Buy Back” into “credit”. HC TS has provided “on the ground” evidence. See Pawnbroking and Buy-back project report in Annex 7</p>

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Main Heading	Sub-heading	Review
Fair Trading	<p>Motor Trade –(Statutory Function; National TS Priority; THC Programme - Working together for strong and safe communities-& Working together for the economy)-</p> <p>To continue to work to identify and deal with those car dealers who chose to work outside the legitimate licensed trade and to reduce the level of consumer complaints in this area of business by continuing to focus resources onto businesses assessed to present a higher risk.</p> <p>Specifically</p> <ul style="list-style-type: none"> • Lead a North of Scotland project which tackles the issue of “misleading omissions” in relation to second-hand car sales. Consumers must be given the full information about a car and any associated guarantees before making an informed decision to purchase and this project will involve widespread compliance advice being given to car dealers and enforcement action being taken where necessary. Evidence: Project Report • Car Trade Business Advice. Periodic “newsletters” will be produced on Trading Standards issues of interest to the car trade. Newsletters distributed over the last three years have been very well received by the trade. Evidence: Number of newsletters produced and businesses distributed to. • Participate in a Scotland-wide project which seeks to tackle unethical car dealers who pose as private sellers in an attempt to reduce their liability to consumers. Evidence: Project Report 	<p>Outcome 1 Consumer survey initiated autumn 2014, heralded by associated media release. Operational phase initiated early 2015, but now extended into 15/16 with final report due late 2015.</p> <p>Outcome 2 See example of newsletter in Annex 7</p> <p>Outcome 3 See Undisclosed car dealer project report in Annex 7</p>

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Main Heading	Sub-heading	Review
Fair Trading	<p>Intellectual Property --(Statutory Function; Local Priority; THC Programme - Working together for strong and safe communities-& Working together for the economy)-</p> <p>Together with targeted market surveillance on known problem areas, to work closer with partner agencies to improve intelligence gathering and its effective use in combating the supply of counterfeit and other illicit goods.</p> <p>Including</p> <ul style="list-style-type: none"> • Analysis of local Intellectual Property intelligence, and investigations as appropriate. This will involve detailed and focused analysis of all intelligence and other information received on the topic of IP crime. Consideration will be given to crime prevention work such as the production and distribution of a consumer education video on IP. Evidence: Annual Report • Proactive enquiries will also be undertaken through local sources and online information, including eBay, Facebook and other internet selling platforms. Evidence: Annual Report 	<p>General</p> <p>Intellectual property cases continue to account for a significant proportion of our investigative activity and reports to the Procurator Fiscal. Two such cases were reported during 2014/15 and await disposal.</p> <p>Outcome 1</p> <p>Analysis undertaken and fed into operational tasking. Form for reporting IP issues now on HC website. Extensive media coverage.</p> <p>Outcome 2</p> <p>Surveillance of relevant sources continues, but this his work was scaled back due to time constraints. One significant case reported involving a local man selling fake DVDs on eBay</p>

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Main Heading	Sub-heading	Review
Fair Trading	<p>Consumer Advice, Conciliation & Consumer Education --(<i>Support of a Statutory Function; Local Priority; THC Programme - Working together for strong and safe communities-& Working together for the economy</i>)- To continue to work with Citizens Advice Consumer Service and other partners in the provision of advice and education to consumers and in cases referred to Trading Standards to provide high quality 2nd Stage consumer advice, where appropriate conciliating between consumers and traders with a view to assisting in the resolution of consumer disputes. To develop a strong local partnership with the Highland Citizens Advice Bureaux and Citizens Advice Scotland to promote consumer advice, assistance and empowerment.</p> <p>Specifically</p> <ul style="list-style-type: none"> • Continue to develop the “Highland Consumer Partnership” with the eight Highland Citizens Advice Bureaux and Citizens Advice Scotland. This will involve a wide range of activities, including: <ul style="list-style-type: none"> ○ Joint campaigning on matters of consumer detriment, ○ Further exploring mechanisms for sharing intelligence ○ The provision of specialist advice to CAB advisers ○ The production of consumer education/crime prevention materials including information videos <p>Evidence: Project Report</p> <ul style="list-style-type: none"> • Carry out an ongoing and detailed survey of all consumers who are users of the consumer advice and conciliation services. <p>Target: 80% satisfaction rate on full-year questionnaire returns.</p> <ul style="list-style-type: none"> • Young Consumers of the Year Competition. The North of Scotland 	<p>General Series of successful joint events carried out during Scams Month TS-CAB “Toolkit” currently being compiled for SCOTSS & CAS Successful joint working on several individual cases since April Joint work on “It’s not fine” private car parking campaign</p> <p>See Annex 4 - Consumer Complaints 2014-15 report,</p> <p>Outcome 1 See Highland Consumer Partnership in Annex 7</p> <p>Outcome 2 Satisfaction score of 88% achieved See Customer Questionnaire in Annex 4</p>

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Main Heading	Sub-heading	Review
	<p>Young Consumers of the Year Competition will be organised and participation in the Scottish Final as appropriate Evidence: Annual Report</p> <ul style="list-style-type: none"> National Consumer Week. Publicity work will be organised around TSI's National Consumer Week in November. Evidence: Annual Report Scams Awareness Month in May. Publicity in partnership with CAS/CABx Evidence: Annual Report 	<p>Outcome 3-5 See Consumer Education Report North final took place in December, winners Fortrose Academy, positive media coverage.-5</p> <p>Achieved</p> <p>Achieved</p>

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Main Heading	Sub-heading	Review
Fair Trading	<p>Civil Enforcement —(<i>Statutory Function; Local Priority; THC Programme - Working together for strong and safe communities-& Working together for the economy</i>)-</p> <p>To monitor the activities of businesses that sell goods and services to Highland consumers in terms of compliance with the requirements of a range of “civil ” consumer legislation, in particular the law relating to: the sale of goods, supply of services, distance selling, unfair contract terms and provision of guarantees. To identify traders that significantly breach these requirements and take appropriate action under the Enterprise Act 2002.</p> <p>Specifically</p> <ul style="list-style-type: none"> Detailed business advice campaign in relation to new Doorstep and Distance Sales. Significant changes to laws relating to online sellers and businesses that form contracts in consumers’ homes come in during June 2014 and local businesses need to be informed of the changes and assisted in their compliance. <p>Evidence: Project Report</p> <p>The Consumer Rights Bill proposes a wide range of changes to civil consumer law in areas such as: sale of goods, supply of services, digital content and unfair contract terms. A variety of responses from Trading Standards are required, including consumer education, business education, inspections and enforcement action where required. The timescale for the passage of the Bill is uncertain but it is hoped it will be passed during 2014-15, enabling Trading Standards to put some of these activities into operation. Evidence: Annual Report</p>	<p>Outcome 1 Mailshot to just under 1000 targeted businesses sent out in July, alongside news release and HC-website-based self-assessment option for any business. Over 300 returns received and well over 100 specific business advice queries handled. See Distance and Doorstep Sales Regulations report in Annex 7</p> <p>Outcome 2 Delay in Bill receiving royal assent with new legal provisions commencing in law on 1 October 2015. Work deferred to 2015-16.</p>

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	<ul style="list-style-type: none"> Carry out a project taking a concerted look at the private rented housing sector. Some intelligence and much “word of mouth” suggest that this may be an untapped area of consumer detriment that has not been tackled before. Officers will work with CABx, CAS and other partners to find out more about the problems and take action as appropriate. <p>Evidence: Project Report</p>	<p>Outcome 3 Meetings held with HC Licensing, HC Housing and trade reps. “Test case” being investigated re CAB referral. Workplan being drawn up for 15-16 re mailshot/self-assessment for letting agents and landlords</p>

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Quality Standards	<p>Animal Feedstuff Standards (<i>Statutory Function/ Code of Practice; THC Programme - Working together for strong and safe communities-& Working together for the economy</i>)- To ensure compliance with feed hygiene and quality standards by the targeted surveillance of producers and feed businesses and the taking, where considered necessary, of product sampling for analysis.</p> <p>Including</p> <ul style="list-style-type: none"> • Conducting an FSA agreed inspection programme. Target: Complete 100% of programme. • Conduct necessary product sampling activity. Target: Respond appropriately to 100% of negative test results. 	<p>Outcome 1</p> <ul style="list-style-type: none"> • 100% of high risk, 33% of medium and 0% of low risk premises were inspected. 23 of 74 premises were inspected in total. No significant non-compliances found • No negative test results obtained.
Quality Standards	<p>Fertiliser Standards/ Safety – Ensure compliance with fertiliser quality standards and compliance of imported High Nitrogen fertiliser (with detonation resistance standards) by targeted market surveillance of higher risk producers/importers and the monitoring and sampling for analysis and test, where necessary, of shipments of product.</p> <p>Specifically</p> <ul style="list-style-type: none"> • Conduct targeted market surveillance to identify producers/importers. Evidence: Number of producers/importers/ports interacted with. • To respond to all importation notifications as and when received. Evidence: Number of notifications received, responded to and action taken. 	<p>Changes to the legislation and government policy have now effectively removed this responsibility from operational relevance and the topic will be removed from future Operational Plans.</p> <p>No importation notifications received in 2014/15</p>

Annex 4 - Consumer Complaints Analysis/ Report

Introduction

In line with recent years, 2014-15 saw most consumer complaints being dealt with by the Duty Team, with other officers also involved in complaint handling as an adjunct to their specialist enforcement duties.



Total complaint numbers were down a little (6%). This can be attributed to a decrease in the number of complaints received via the Citizens Advice national consumer helpline. The number of complaints received from other sources was almost identical to the 2013-14 figure (852 to 822).

Table 1 also lists “Intervention Cases”, a better indication of workload than total case numbers. The figure of 204 – although lower than the previous year – is significantly higher than other recorded years on this measure. It is thought that the 262 cases recorded in 2013-14 was unusually high and perhaps a little artificial as a significant number of the cases were against two problem traders, thus reducing the overall time spent per case⁷. It is thought that overall time spent on Intervention cases was similar in the last two years.

Note that “Intervention” includes Conciliation, but is not limited to it. Other forms of significant assistance to a consumer are also included, e.g. drafting a statement of claim for Small Claims, or enabling a consumer to legally withhold payments they would otherwise have made.

Table 1

	CDR	CDN	By Visit	By Letter	Other	All	Intervention Cases
2006-07	732	2122	249	104	551	3758	N/A*
2007-08	879	2502	203	137	572	4293	N/A*
2008-09	921	2752	187	115	513	4488	N/A*
2009-10	1041	2743	228	85	553	4650	N/A*
2010-11	982	2464	192	72	498	4208	N/A*
2011-12	912	2034	224	51	489	3710	120
2012-13	727	2039	197	53	509	3525	167
2013-14	821	1824	212	41	599	3497	262
2014-15	695	1765	200	53	569	3280	204

*this information not recorded until 2011-12

⁷ The complaints against the problem traders could be dealt with more efficiently as part of ongoing targeted investigation, e.g. several complaints could be raised during one visit or in one letter.

Redress

The achievement of redress for a consumer is not always a measure of how well Trading Standards staff have dealt with a complaint. There are a variety of reasons why it may be impossible to achieve redress.⁸ Further, as Conciliation is always combined with law enforcement through advising the trader of their obligations regarding future sales, there are positive outcomes from cases even where there is no redress. However, despite these important caveats, achieving fair redress is an important part of what Trading Standards does for its public.

2014-15 was the fourth full year of recording full financial information about each complaint received. This includes:

- the contract price for the goods or services in question;
- the financial detriment suffered by the consumer;
- the redress achieved by the intervention of Trading Standards.

Table 2⁹

Year	All Complaints		Intervention Cases			
	Contract	Detriment	Contract	Detriment	Redress	Redress as % of Detriment
2011-12	£7,056,914	£3,113,597	£300,773	£127,000	£87,000	69%
2012-13	£5,309,688	£2,321,778	£386,111	£176,417	£141,934	81%
2013-14	£8,620,098	£2,580,087	£589,178	£307,388	£147,252	48%
2014-15	£9,491,695	£3,398,171	£588,229	£190,850	£134,445	70%

As Table 2 shows, these numbers fluctuate significantly. The 70% achieved in 2014-15 is a major increase on the previous year, but it may be more reasonable to compare it with the 4-year average of 67%. In any event, these are thought to be impressively-high figures that demonstrate the effectiveness of the Conciliation service.

Mode of Receipt

Table 1 above breaks down the complaints in terms of the way in which the complaints were received by Trading Standards, namely: Referral (CDR); Notification (CDN); by personal caller to the office; by letter; by other methods such as e-mails, webforms and partner sources such as the Highland Citizens Advice bureaux and VisitScotland.

⁸ For example, the company may have become insolvent, or the consumer's claim may not be valid

⁹ Note that "Redress" is assessed in terms of "Intervention Cases" (see above). This excludes, for example, CDNs and many "no commitment to contact" CDRs where it is not possible for there to be any TS-achieved redress. Table 3 shows the figures.

There are significant differences in the time spent by staff on these different types of situation. CDNs generally involve reading the text, ensuring the record is complete and in some cases notifying other officers of the complaint or filing 5x5x5 intelligence logs where appropriate. This work seldom takes longer than half an hour per case and is often completed in a few minutes. Similarly, CDRs that are marked “no commitment to contact consumer” can be dealt with equally quickly if the officer judges that there is no requirement for detailed investigation or other action.

On the other hand, referrals that involve further action (e.g. conciliation or enforcement) can lead to lengthy work activities. Visits and many of the complaints in the “Other” category sit in between and generally take between about 30 minutes to one hour of officer time. This can be considerably longer in some cases where ongoing work is required.

Purchase medium

A record is also maintained of the method of purchase surrounding the dispute about which a complaint is made. Table 3 shows comparisons with recent years. There are no significant trends to report, with the percentage of complaints attributed to the different purchase media remaining remarkably constant. It remains the case that Trader Premises¹⁰ and Internet Sales account for more than half of the total.

Table 3

	2011-12	2012-13	2013-14	2014-15
Auctions	24	16	19	17
Phone	393	373	373	337
Internet	567	667	681	626
Unsolicited Postal	73	67	71	94
Unsolicited Phone	270	182	203	132
Doorstep Invited	217	167	171	175
Doorstep Uninvited	63	87	65	58
Trader Premises	1269	1225	1166	1047
Private Sale	32	40	53	35

Subject of complaints/ Complaints Analysis

All complaints are recorded against an “Goods Code” which identifies the types of goods or services involved, and the “Trading Practice” code which indicates the type of misconduct alleged by the complainer. Figure 2 on page 7 shows the “Top 20” most-complained-about goods and services types. For a number of years this has featured the likes of mobile phones and home improvements and 2014-15 was no different. Purchases of 2nd Hand cars from independent dealers yet again tops the list, this time with 204 complaints, a very similar number to the previous year’s 220. In fact, no

¹⁰ i.e. shops and other fixed physical premises where the consumer goes in person

particular trends or changes can be identified¹¹ from contrasting the 2014-15 figures with recent years.

One perhaps unhelpful aspect is the high incidence of some of the miscellaneous “Other” categories. This reflects a need for the categories to be revised to reflect modern retail markets and this is a task that Citizens Advice will undertake during 2015 with a view to implementing in 2016. This is a welcome development and Highland Trading Standards will contribute to that process.

Figure 3 on page 8 lists the “Top 10” most common trading practices identified in the complaints. Note that the graph excludes the categories “Defective Goods” and “Sub-standard Services” as these are always the top two by some margin. Numbers and rankings are similar to past years with one exception: a significant increase in the number of complaints about breach of contract, up from 76 to 161. This suggests that basic consumer buying rights issues are still central to the consumer landscape. By coincidence 2015 sees a significant revamping of these matters in the Consumer Rights Act and Highland Trading Standards will be involved in a range of activities relating to this.

Customer Questionnaire

Highland Trading Standards has for a number of years carried out customer surveys seeking feedback on the consumer advice service provided. This was carried out annually with a sample of consumers receiving questionnaires. After a quality review, it was decided that the survey be carried out on a rolling programme, with questionnaires issued quarterly to all recipients of the service. This resulted in a much larger number of returns on which to base analysis of the feedback. 2014-15 was the second year of this more extensive survey.

The National Performance Framework (NPF) satisfaction score was calculated. The NPF return to Government is no longer compulsory but the method for calculating an overall satisfaction score is still relevant and informative and enables comparison with other years. The scoring is a weighted calculation based on the following questions:

1. How satisfied were you with our overall level of service?
2. Did we give you information/advice that was easy to understand?
3. How informative did you find our staff?
4. Did we treat you fairly at all times?

Table 4 summarises the findings and lists previous results.

¹¹ With the possible exception of the reduction in cases about Insulation, reflecting a “spike” in numbers from the previous year due to the actions of a small number of itinerant firms.

Table 4

Year	Satisfaction Score (Former NPF PI)	Forms sent out	Forms returned	Return Rate
2014-15	88%	438	131	30%
2013-14	90%	614	204	31%
2012	85%	169	56	33%
2010	87%	79	28	35%
2008	72%	c. 70	21	30%
2005	91%	c. 80	27	33%

The final satisfaction score of 88% is very slightly down on last year's all-time high of 90% but is still considered to be an excellent score which compares favourably with all other years. An analysis of the comments made by consumers on the forms shows that:

- 36 comments (54%) were positive about service
- 18 comments (27%) were negative
- 13 comments (19%) were neutral

Several of the negative comments expressed dissatisfaction with the advice "landscape" that is centred around the Citizens Advice Consumer Service. A further portion involved other matters outwith the control of the Service such as the extent of Trading Standards powers. The handful of remaining negative comments – which did suggest service failings – were all investigated and acted on if necessary. No serious service failures were identified.

Conclusions

The following conclusions are proposed.

1. Financial redress continues to be achieved for consumers. The percentage redress figure varies significantly from year to year for reasons outwith the control of the Trading Standards service. This year's 70% compares well with other years and the rolling 4-year average of 67%.
2. The expanded customer questionnaire has been a success, with over 130 returns throughout the year providing a much larger and more significant sample on which to judge customer satisfaction than most previous surveys. The overall score of 88% suggests high levels of customer satisfaction.
3. The reduction in overall complaint numbers appears to reflect a reduction in calls to the Citizens Advice Consumer Service. That service needs to be promoted and its profile raised.
4. The annual total contract price for complaints received is approaching the £10 million mark and the recorded detriment figure of £3.3 million was the highest recorded yet. Highland consumers are still suffering significant consumer detriment.
5. Conciliation and consumer redress remain central and effective parts of the enforcement and consumer protection activities of Trading Standards in Highland.

Figure 1 – Complaints trends

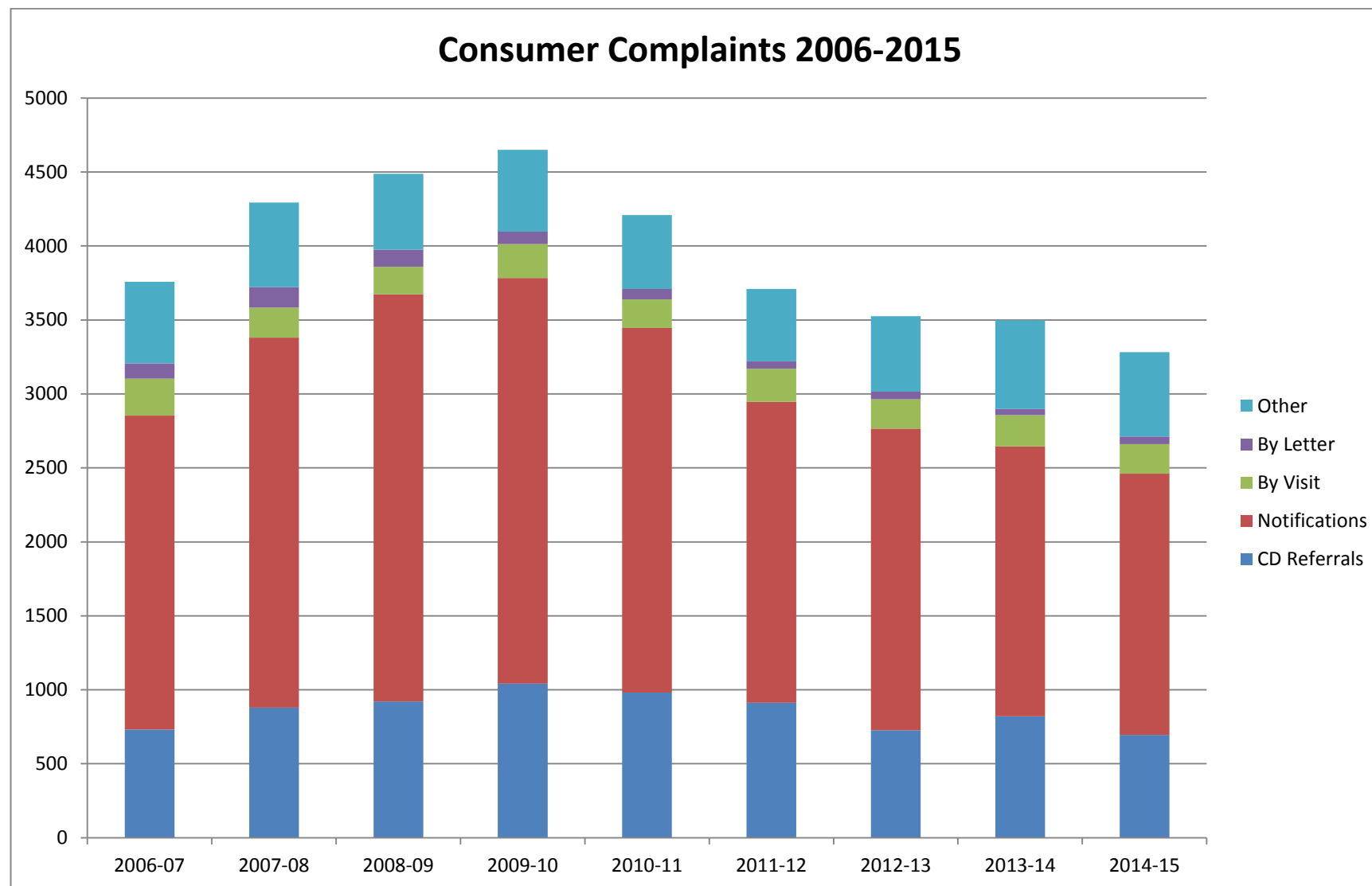


Figure 2 – Top 20 OFT Goods Code 2014-15

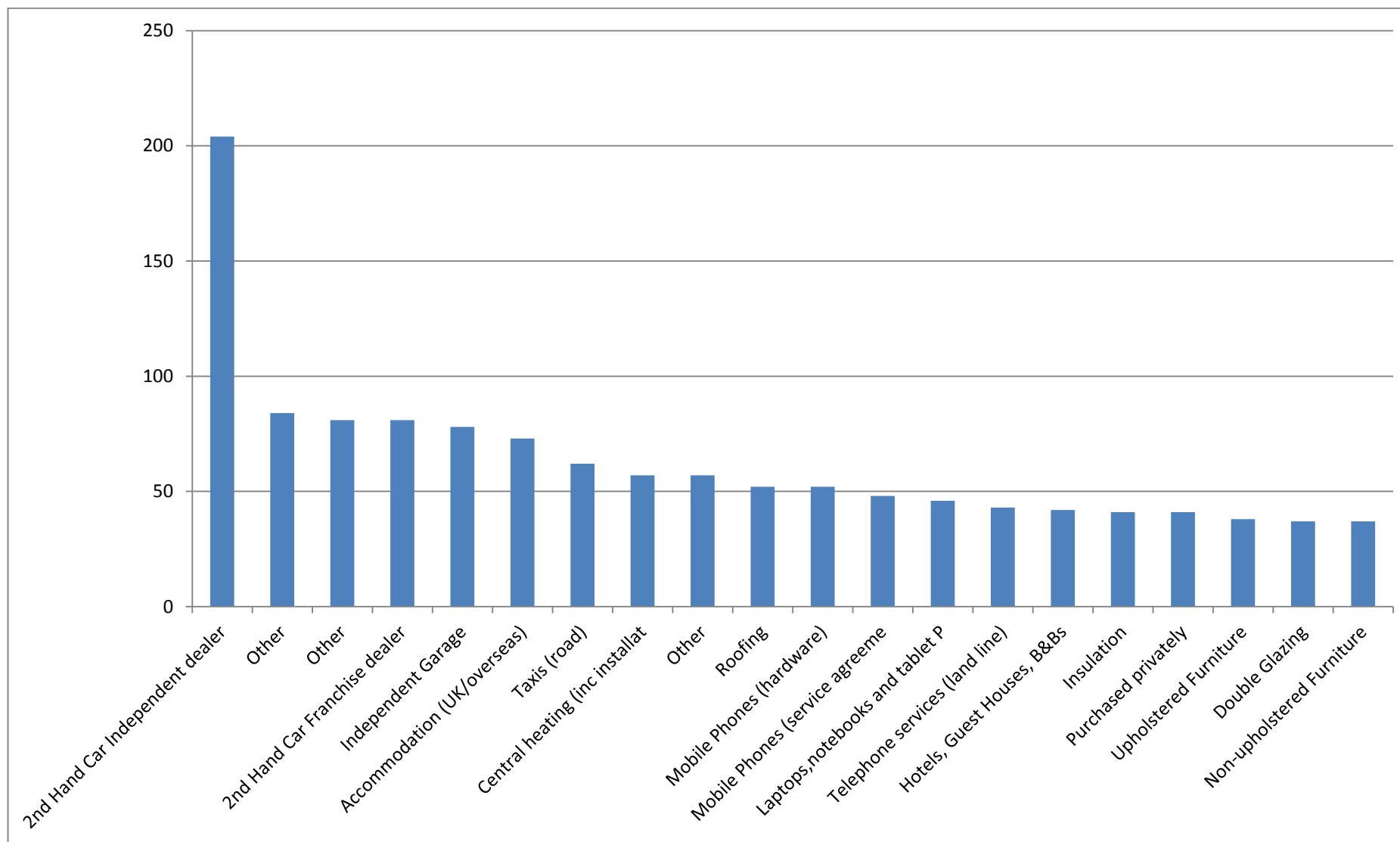
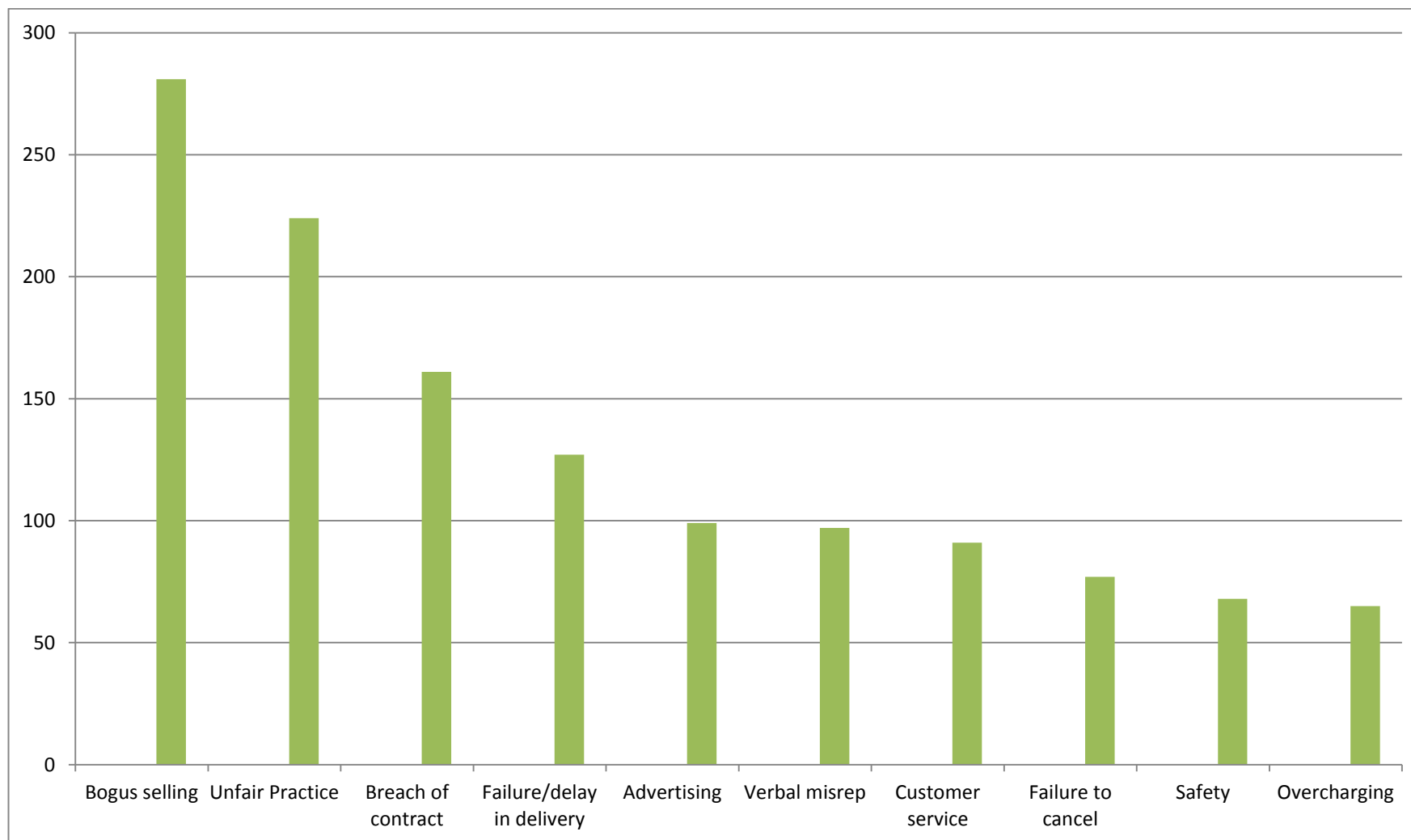


Figure 3 – Top 10* OFT Trading Practice 2014-15



* This excludes Defective Goods (783 complaints) and Sub-standard Services (686)

Annex 5 - Investigations Analysis/ Report

The Highland Council Trading Standards Investigations Report 2014-15

For a number of years now, the work of Highland Council Trading Standards has moved away from cyclical “inspection” regimes to using intelligence, in its broadest sense, to identify actual problems which cause consumer detriment. Information obtained through a number of available channels is used to identify areas of work that require projects, surveys and other general interventions. Specific information is used to initiate investigations into particular businesses.

The channels used include:

- Consumer complaints information from the Citizens Advice Consumer Service helpline
- Complaints and enquiries received directly from consumers and businesses
- Formal intelligence logs from partner agencies such as other Trading Standards Services, the Police, HMRC
- Information from other partners and stakeholders, e.g. Citizens Advice Bureaux, other Council Services, elected representatives
- Observations made by Trading Standards staff in the course of their duties

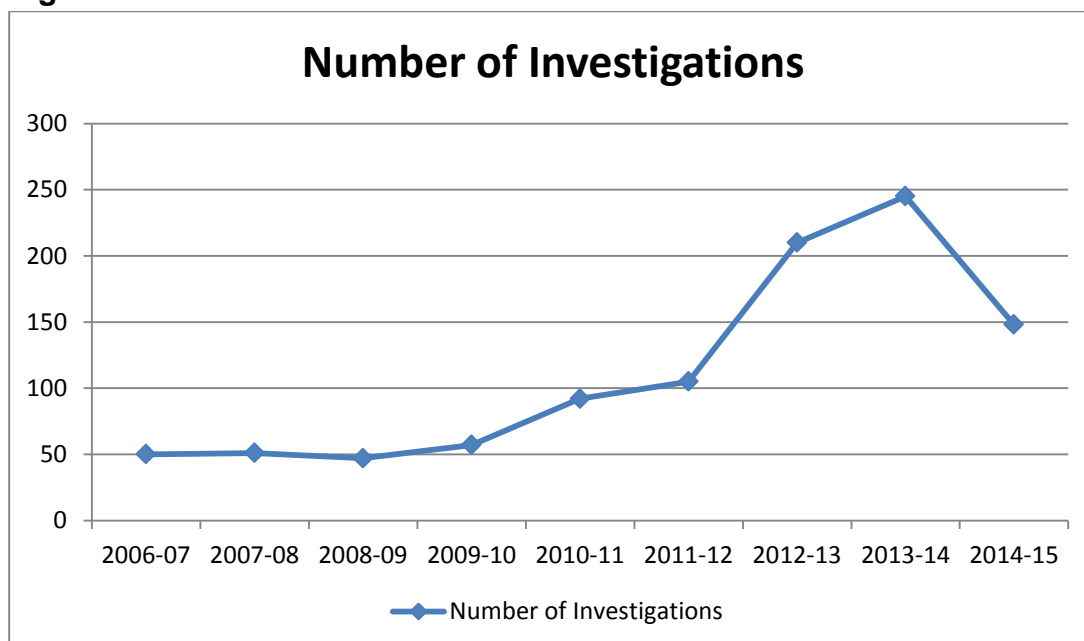
Figure 1 illustrates the trend over the last nine years.

The 148 investigations completed in 2014-15 is slightly down on the last two years but still significantly more than most of the previous recorded years. This number can fluctuate depending on the types of investigations carried out.

A long, complex inquiry ending with a report to the Procurator Fiscal is a more time-consuming piece of work than a more simple case that ends with an informal disposal.

Note too that the statistics in Figure 1 relate to “mainstream” Trading Standards activities and do not include some of the work of the Service – e.g. taxi licensing enforcement – which is recorded in other ways.

Figure 1



Trading Standards investigations vary widely: from reasonably straightforward issues that can be quickly resolved at one extreme, to lengthy inquiries involving many months of work and a court case, at the other. Outcomes also vary, as illustrated in Figure 2 presented alongside the figures for 2012-13 and 2013-14.

Very formal outcomes such as court cases and Undertakings are reserved for the most serious cases, or where a trader has failed to co-operate.

In the majority of investigations, businesses recognise the issues in hand and agree to make changes to their future practices, often also recompensing consumers who have complained to Trading Standards.

The categories “Dealt with by Advice” and “Compliance achieved” are the most common, both of which involve such practical, informal outcome types. 2014-15 saw fewer of these outcomes but more prosecutions, when compared to the previous year.

The “informal” outcomes should not be viewed as a “soft touch”. Although relatively relaxed in comparison with court proceedings, the “advice” involved is often in writing. Further, in many cases enforcement powers will have been used: to require documents, test-purchase goods or even seize items. Consequently, the business is under no illusions that they have been dealing with an enforcement agency and must not repeat these contraventions. Most businesses are successfully brought into line.

Some investigations uncover legal breaches which apply across the UK and may be better dealt with by the “Home Authority” (i.e. the Trading Standards Service for the area in which the company’s head office is based), see Code JHA in Figure 2. Code “JID” refers to cases where the investigation has reached an impasse, perhaps because the company has ceased trading, or an individual trader has left the area. Such “dormant” cases can be re-opened at a later stage if circumstances change or more information comes to light.

Figure 2

Investigation Outcome Type	2012-13	2013-14	2014-15
JA0 : No Breach Identified	32	33	23
JAA : Dealt with by advice	51	66	28
JAC : Compliance achieved	49	44	25
JAF : Formal written warning	1	4	2
JAR: Report to P-F	0	3	6
JEI : Enterprise Act Informal Assurance	10	5	7
JES : Enterprise Act Court Order	2	1	1
JEU : Enterprise Act Formal Undertaking	2	3	3
JHA : Home Authority referral	30	29	18
JID : Investigation dormant	33	59	31
JWT: Website Takedown	N/A	N/A	4
TOTAL	210	245	148

The following are five brief case studies, which illustrate different types of investigations and different types of outcomes.

Individual trader – Online sales of falsely described goods

(Outcome: Report to Procurator Fiscal)

A complaint was received that a local woman had sold jewellery described as “silver” when it was only silver-plated. Enquiries showed that the trader had sold a number of similarly described items through eBay and was continuing to advertise a large number of goods on that platform. A test purchase was carried out and the jewellery sent to the Assay Office for test. It was found to be base metal with a very thin layer of silver. A warrant was obtained and the trader’s premises were raided, with a large quantity of items seized. Investigations into the seized items found that all were illicit, either falsely described, counterfeit, unsafe or a combination of these. A report was sent to the Procurator Fiscal and the case was still pending trial at the end of the year.

Itinerant Builders: aggressive and unfair practices

(Outcome: Report to Procurator Fiscal)

A group of itinerants offering various home improvement services were targeting elderly and other vulnerable consumer with repeated unsolicited visits. Their menacing demeanour had led to several of the consumers agreeing to have very overpriced work carried out. The individuals failed to give cancellation rights and other required consumer information, aggressively sought payment and deliberately carried out poor and incomplete work. After a detailed joint investigation with the Police a report was sent to the Procurator Fiscal for offences of fraud, unfair commercial practices and failure to give cancellation rights. The case was still pending trial at the end of the year.

Individual Trader: Sale of counterfeit products

(Outcome: Enterprise Act Formal Undertaking)

Intelligence received indicated that a local individual was selling counterfeit clothing and branded goods through Facebook. A RIPSA¹² directed surveillance authorisation was obtained and the individual’s Facebook selling activities monitored. A CHIS¹³ authorisation was subsequently obtained and a test purchase carried out. These items were inspected by brand holders and found to be counterfeit. Ongoing monitoring of the suspect’s Facebook activities did not indicate further sales. The suspect was interviewed and admitting selling a range of counterfeit items but also made credible claims to have stopped such trading. His co-operation and apparently genuine remorse, allied to the fact that evidence was only available for a relatively small number of offending sales, led to a decision not to report to P-F and instead he signed a Formal Undertaking under the Enterprise Act as to future conduct.

National Building Company: supply of services and off-premises sales

(Outcome: Compliance achieved)

Complaints received about national company in terms of home improvements work carried out in Highlands. Work not carried out with reasonable care and skill and consumers not given the correct information, including cancellation rights. Joint inquiry with home authority resulted in the company remedying the Highland failings, changing paperwork and giving assurances about future work.

¹² Regulation of Investigatory Powers (Scotland) Act 2000

¹³ “Covert Human Intelligence Source”. Directed Surveillance and CHIS activities can only be carried out if authorised by a senior officer after a rigorous human rights assessment

Cosmetics Manufacturer: product safety

(Outcome: Compliance achieved)

Intelligence indicated that a new manufacturer of cosmetics was based in the area and selling online. The business was visited and found to be falling well short of strict product safety requirements for such high risk products. Detailed advice was given over a period of months and resulting actions taken by the business resulted in full compliance being achieved.

Annex 6 - Consumer Education Report

Last year's Consumer Education programme for 2014-15 covered the following areas of work undertaken: Highland Consumer Partnership Events - CAS Highland Gathering March 2014 -Scams Awareness Month May 2014 -IT'S NOT FINE - Campaign on unfair private parking charges Oct 2014 - Highland Young Consumer of the Year Competition 2014-15 Young Consumer of the Year Competition (Scottish Young Consumer of the Year Final March 2015) Stay Safe Highland Peer speaking Training Programme (Crime Prevention on scams). Community Consumer Education Talks & Presentations Community News Articles & Press Releases Overview



Improving Links at the Highland Gathering Consisting of 10 partner organisations : Caithness, East Sutherland, Inverness, Lochaber, Nairn, NW Sutherland, Ross & Cromarty, Skye & Lochalsh CABx Highland Trading Standards Citizens Advice Scotland Community Action Team

Consumer Partnership (HCP) Events

Spot scams, Stop Scams Scam Awareness Month 2014. Launch date: Thursday, 1st May 2014 The Highland Consumer Partnership (Highland Council Trading Standards, Citizens Advice Scotland and Highland Citizens Advice Bureaux) held joint

activities and scam prevention information for consumers across the Highlands and Islands. Each week a themed activity, event or scam prevention information was made available to the public to coincide with the following four key themes:
Online Scams from Thursday 1st May (Launch Date)
Mail Scams week beginning 12th May
Telephone Scams week beginning 19th May
Doorstep Scams week beginning 26th May





Trading Standards and volunteers from Nairn CAB Scam Awareness Event

Consumer Partnership (HCP) Events Scams Awareness Month



Glenys Brown (Highland TS) and Jim McCourt East Sutherland CAB at Golspie Service Point

IT'S NOT FINE - Campaign on unfair private parking charges

Highland Council Trading Standards and local Citizens Advice Bureaux launched a local campaign to ensure that Highland consumers get a fair deal over private car parking during October 2014.

Materials including a poster and survey form were available throughout the HCP area as well as online so Highland residents could report any issues found:
<http://www.cas.org.uk/about-us/campaigns/its-not-fine-campaign-unfair-private-parking-charges>



Young Consumer of the Year Competition December 2014

A team from Fortrose Academy won the Highland Young Consumer of the Year Competition 2015 which was held today on 10 December 2014 at The Highland Council Chamber, Inverness. Fortrose Academy and Golspie High School were put to the test by Quiz Master, Bryan Bain, Nairn Citizens Advice Bureau. Teams answered questions on money and credit, consumer law, food and safety and the environment. The event has been organised by the partnership with Nairn Citizens Advice Bureau and Citizens Advice Scotland. Fortrose Academy went on to represent Highland in the Scottish Young Consumer of the Year Competition which took place at the Scottish Parliament in March 2015.



Fortrose Academy team members photographed with Councillor Linda Munro,

Champion were: Oscar William Barnett (Captain) ; Ben Beasley; Ron Coggins and Lorcan Downing James

Stay Safe Highland Peer speaking Training Programme (Scams)

Through working with its volunteer speakers Highland Council Trading Standards have produced training and materials to enable volunteers to provide community group based talks to elderly and vulnerable consumers on how to avoid being scammed. SSH continue to receive regular updates on new scams and developments through our Service.



Scottish Young Consumer of the Year Final 27 th March 2015 Scottish Parliament Building, Edinburgh Highland Trading Standards Service has continued the role of coordinator and host of the above competition. The competition is held in partnership with Citizens Advice Scotland who provide support and materials for students aged between 14-17 as well as individual prizes for competing teams. Teams consisting of 4 members are tested on a range of consumer-related topics which are strongly linked to the Curriculum for Excellence.



Joint sponsors of the competition include Veolia Water (who awarded winners Ayr Academy £500 cheque presented by Adam Moore); Scottish Branch Trading Standards Institute; Citizens Advice Scotland. The event is held in the Scottish Parliament by the kind sponsorship of Dave Thompson MSP Highland and Islands. Runners up were: **Boroughmuir High School (Edinburgh); Fortrose Academy (Highland); Harris Academy (Dundee); Kirkintilloch High School (East Dunbartonshire)**. The hunt is on for a Highland school to be the next Scottish YC Finalist Winners for 2016!

Community Consumer Education Talks/Events

Community groups who have received talks from Trading Standards over the last year relating to scam awareness, shopping rights, distance selling rights, are as follows: TS stall at Financial Harm Conference (Smithton Church) Golspie & Dornoch Scam Awareness Open Day Raigmore Community Centre Talk Green Deal Issues UK YC Competition TSI Conference 2014 International Womens Group Raigmore Community Centre Highland Young Consumer of the Year Competition Heat 2015 Adult Support & Protection (Financial Harm Group) Consumer Empowerment Safeguarding Victims of Financial Crime Conference Home Energy Scotland (Green Deal issues) TS talk to advisors

Community News Articles & Press Releases Overview Community newsletters and community websites based in the Highlands and Islands receive a monthly consumer news interest article. These articles cover topical consumer issues as well as advice to consumers regarding shopping rights.

- **Watch out for expensive payment surcharges on credit and debit cards advice to consumers (April 2014)**
- **Wise Up When Buying Energy Saving Products for your home advice from Highland Council Trading Standards (May 2014)**
- **Local rogue builder to appear on BBC How Safe is Your House? (June 2014: http://www.highland.gov.uk/news/article/7661/local_rogue_builder_to_appear_on_bbc_how_safe_is_your_house)**
- **New rules when buying goods and services on internet, phone and mail order (July 2014)**
- **Put the phone down on cams Advice from Highland Council Trading Standards (August 2014)**
- **New rights when Buying 'on premises' - what you should know advice from Highland Council Trading Standards (Sept 2014)**
- **Thinking of borrowing some money? Advice from Trading Standards (October 2014)**
- **Watch out for fake websites and goods this Christmas warns Trading Standards (Nov 2014)**
- **Christmas Online Shopping Rights Advice from Highland Council Trading Standards (Dec 2014)**
- **How to complain if things go wrong? Advice tips for consumers (Jan 2015)**
- **Booking a flight abroad? A guide to air passenger travel rights**
- **Conned by Loan Scams? Watch out for fraudsters advice from Highland Council Trading Standards (March 2015)**

All Highland Council Trading Standards press releases can be seen through the Highland Council website by going to: http://www.highland.gov.uk/news/20000/trading_standards The press releases highlight the enforcement work carried out by the Service throughout 2014-15 as well as alerting consumers and businesses of particular concerns.

Annex 7 - Project & Targeted Initiative Reports

This section contains detailed reports of many of the projects and initiatives, including in some cases SCOTSS National or Regional projects in which Highland Trading Standards took part in during 2014/15.

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Community Safety

Cold Call Control Zone Community Toolkit Project **Summary** James Proctor
Research Assistant/Intern, Highland Council Trading Standards
June 2015



1. Introduction

A project to inform and empower communities by providing a web based tool kit to highlight the problem of rogue doorstep trading, aid the establishment of Cold Call Control Zones (CCCZs) in Highland and introduce access to Construction Licensing Executive vetted, reputable traders.

The project will deliver the next phase of a preventative strategy targeting communities who would benefit from being better informed and empowered to deal with rogue trading and doorstep crime.

This project will involve pulling together what we have learnt from previous work in this area, and, along with a new approach and partnership with CLE, will provide a web and social media platform for our communities to use.

2. Background

2.1. Doorstep crime

Most doorstep traders operate a legitimate business. However, a small number exploit vulnerable people causing them to suffer financially, physically and emotionally. These traders will often charge large sums of money for carrying out work that is of poor quality. Some traders will disappear without carrying out any promised work, supply false details or act as a front for distraction burglaries.

In the 2013-2014 period Trading Standards received 259 complaints about doorstep crime with a victim detriment¹⁴ of £94,423. National statistics suggest that this only accounts for ten percent of actual incidents.¹⁵ The most common types of work offered include roofing, insulation, tarmacking and paving, gardeners/tree surgeons and wall coating.

While anyone can be a victim of doorstep crime, it is thought that those over 60 are often targeted. Those that live alone and the recently bereaved are also considered to be susceptible.¹⁶

2.2. What is a Cold Call Control Zone (CCCZ)?

Cold Call Control Zones (CCCZs) are community run and funded schemes that generally cover a small geographical area. CCCZs use a combination of education and signage to empower residents to say “no” to doorstep traders. The zones also encourage residents to report any incidents of doorstep trading to authorities. Such schemes are already in operation across the UK.

There are currently three CCCZs in operation in the Highland Council area. The first of which was established in 2012 in the Wimberley Way area of Inverness at the request of the Ministry of Defence. Two subsequent zones were set up in September 2014 by Muirtown Community Council and Dalneigh and Columba Community Council as part of a six month project.

The establishment of these zones have allowed Trading Standards staff to develop materials and best practice in order to set up CCCZs.

2.3. What is the Construction Licensing Executive (CLE)?

The CLE is a registered charity (non-profit), operating a licensing scheme to help consumers find reputable traders in the construction industry. The CLE aims to protect consumers from rogue traders and give them confidence and peace of mind by allowing them to search for reputable, trustworthy and competent tradesmen.

The CLE use five trade bodies to licence reputable traders who meet a certain standard of competence and quality of service. The CLE scheme is unique in offering a free warranty to domestic customers, which is designed to give them additional assurances.

In early 2015 the decision was made that the CLE would cease operations.

¹⁴ Victim detriment is a Trading Standards evaluated estimate of the financial sufferance of the victim, this includes, but not exhaustively; work abandonment where the victim has pre-paid in full, and estimates of actual worth of workmanship in cases where the victim has agreed to an inflated price.

¹⁵ *Policing Vulnerability? The Impacts and Implications of No Cold Calling Zones in Angus*. SIPR Research Summary No: 5 February 2011. The Scottish Institute for Policing Research

¹⁶ *Scammed and Dangerous*, Citizen’s Advice Scotland. 2014

3. Project Statement

“A project to inform and empower communities by providing a web based tool kit to highlight the problem of rogue doorstep trading, aid the establishment of Cold Call Control Zones (CCCZs) in Highland and introduce access to Construction Licensing Executive vetted, reputable traders.”

The project outcome will deliver a comprehensive self-help resource bringing together previous work into a single web-based package. Although mainly educational, it is anticipated that this resource will support previously identified key community benefits, these being:

- A more educated, safer community
- Greater communication between the community and the enforcer
- A more informed enforcement agency
- Greater intelligence
- Increased detection rates
- A fairer trading environment
- The project aligns with the Single Outcome Agreement III and the Programme for the Highland Council in: SOA 2.8 Safer and stronger communities and preventing reoffending.
- Areas with most multiple deprivation (SIMD 2012) become safer and are felt to be safer.
- People are, and feel, free to live their lives without harassment and discrimination.
- Highland becomes even safer.
- SOA 2.10 Older people
- People are healthy and have a good quality of life.
- People are supported and protected to stay safe.
- People retain dignity and are free from discrimination.
- People are geographically and socially connected and do not become isolated.

4. Establishment of zones

The toolkit was not the first project to encourage communities to establish CCCZs, in 2014 a six month project to market and facilitate CCCZs resulted in two community councils establishing zones and others making enquiries.

As well as developing a web based resource, this toolkit project was intended to continue to respond to enquiries from groups wishing to establish zones. During last year's project, Trading Standards had been in contact with Crown Community Council. This contact was renewed in December 2014 which resulted in Trading Standards attending a meeting on the 25th February 2015. The Community Council agreed to discuss the topic further and get back in touch if they decided to take the matter forward.

Despite the toolkit not being active at the time of the Crown meeting, the experience gained from the previous project provided a greater degree of precedent which Trading Standards could utilise to advise groups on best practice. Presenting this information as a web toolkit allows Trading Standards staff to refer interested parties to the resource for background information prior to any meeting.

Police Scotland referred Raigmore Community Council to Trading Standards. This resulted in a meeting on 3rd June. The Community Council agreed to conduct a survey in the area to gauge demand for a zone. Two groups contacted Trading Standards after the launch of the toolkit; one representing a Sheltered Housing Group in Dingwall and another believed to be from Maryburgh Community Council. These groups were all referred to the toolkit for more

information.

5. Evaluation of previous zones

In order to establish the effectiveness of the two zones that were established last year, Trading Standards conducted six month consultations in the Dalneigh and Columba and Muirtown CCCZs. This consisted of an adapted version of the “Post Introduction Survey” that was issued to residents in the Wimberley Way zone following its launch.

Both sets of consultations were issued with pre-paid return address envelopes and instructed respondents to send completed responses to Trading Standards’ offices by a certain date. A liberal approach was taken to responses that arrived after this date due to the volume that continued to be received.

In total, 57 households responded to the Muirtown Consultation. Of those that responded, 38 (66.67%) felt less worried about doorstep crime in their home. 41 (71.93%) felt less worried about doorstep crime in their area. 46 respondents (80.70%) felt more knowledgeable about doorstep crime as a result of the zone being in place.

46 households in the Dalneigh and Columba zone responded to the consultation. 35 (76.09%) stated that they felt less worried about doorstep crime at home as a result of the zone being in place. 30 (65.22%) felt less worried about doorstep crime in their area. 35 (76.09%) felt more knowledgeable about doorstep crime as a result of the zone being in place.

Both consultations suggested that zones were still being visited by traders, however, both areas showed a drop in the proportion of instances compared to last year’s consultation which was issued to both zones before their launch. 26.32% of Muirtown residents reported being visited by traders compared to 63.49% before the zone’s launch. Dalneigh and Columba saw a drop from 63.04% before the zone’s launch to 28.26%.

6. Conclusions

6.1 Introduction of online toolkit

- a. Trading Standards have used previous experience establishing CCCZs to create an online resource for interested groups. .
- b. Trading Standards’ presence on the Highland Council website has been increased.
- c. Access to tablet computers allowed for video content to be easily produced and included in the toolkit. These videos enhanced the toolkit and promoted tackling doorstep crime on the Council’s social media channels.
- d. Having experienced the web authoring process, the current system could be made more efficient
- e. The project structure was altered by the winding up of the Construction Licensing Executive (CLE)

6.2 Implementation of CCCZs

- a. Communities in the Highland Council area now have a resource to assist them in tackling rogue doorstep traders.
- b. Trading Standards have a resource to refer interested parties to prior to initial meetings regarding CCCZs.
- c. The launch of the toolkit resulted in some interest from community groups for establishing a zone.
- d. The two zones established in the Highland Council area last year have resulted in residents in both areas feeling safer in their homes and communities.

7. Recommendations

Web presence

- a. Trading Standards should continue to improve their presence on the Highland Council website.
- b. Highland Council staff should continue to receive regular web authoring training. This training should be more comprehensive and include further detail on corporate web standards.
- c. Highland Council departments should have access to tablet computers to allow them to improve their web presence.
- d. The process of approving web pages should be streamlined to avoid delays to future projects.
- e. Training in the filming and editing of videos using tablet computers for Council staff should run regularly.
- f. Trading Standards should conduct regular evaluations of the effectiveness of their online resources, respond to feedback from the public and update when appropriate.

Introduction of CCCZs

- a. Trading Standards should continue to work with community groups interested in establishing CCCZs.
- b. Trading Standards should form a working partnership with a licensing organisation to assist the public in sourcing reputable traders.
- c. The working relationship with Police Scotland should be maintained, as it encourages the sharing of knowledge, resources and expertise.
- d. Groups interested in establishing CCCZs should be referred to the toolkit prior to initial meetings with Trading Standards.

Appendix– Press and Journal article

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Michael Macrae

In an Inverness Sheriff Court report yesterday, in which Nathan Bradley admitted charges of possessing indecent images of young boys, we published a photograph of Michael Macrae, stating incorrectly that he was Nathan Bradley. We have been asked to clarify that Mr Macrae has no connection with this case. We apologise for the error.



KNOCK KNOCK HOAX: Old and vulnerable people are often the targets of door-to-door con men

Community toolkit to tackle trickster traders

Scheme: Info pack urges residents to say no to cold callers

BY JAMIE MCKENZIE

Highland Council has launched a weapon to help communities protect themselves against doorstep crime.

It includes a guide on how to set up a Cold Call Control Zone (CCCZ) to deter rogue traders, tips on how to deal with them face-to-face and advice for businesses to ensure they are operating within the law.

While many doorstep traders offer a legitimate service, some seek to exploit vulnerable people by charging inflated prices for work that is of poor quality, not necessary or not carried out at all.

Sally, older people are

often targeted as they are generally viewed as more trusting, and if they are duped this can have a devastating impact on both individuals and families.

"Communities have reported real benefits as a result of this initiative"

CCCZs are community run and funded schemes that tackle doorstep crime by educating and empowering residents to say 'no' to unwanted doorstep traders. This is done by using signage in the area

and by engaging residents with educational materials.

These are currently three CCCZs in the Wimberley Way, Marrow and Dalnair areas of Inverness.

It is hoped that the toolkit will encourage more groups throughout the Highlands to introduce them and help to protect their communities by reporting incidents to trading standards and the police.

Trading standards manager Gordon Robb said: "Even though it is thought that only 10% of such cases are reported, the 300 incidents that did come to our attention last year revealed that Highland residents

lost nearly £30,000 as a result of doorstep crime.

"These communities that have already worked with us to set up their own schemes have all reported real benefits and as a result of this initiative I look forward to more interested groups working with us and the other agencies involved to protect their communities and help us tackle the issue."

Detective Superintendent, Colin Corry, said:

"Even if you do not feel you are likely to fall victim to this type of crime, it is very important to pass on advice to friends, neighbours or family members who may be more likely to be targeted."

IN BUSINESS TODAY

Subsea 7 cuts
over
400
UK
jobs



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LEISURE

Student safety role for climber

An Inverness-based mountaineer has been appointed to ensure 60 students have the skill to stay safe on the hills next winter.

Nick Carter will work with university mountaineering clubs to deliver expert instruction to a group often considered high-risk.

The mountaineering safety instructor post has been funded by John's Scotland, at the Mountaineering Council of Scotland.

St John's Scotland is the biggest supporter of winter sports in our north of the border.

Mr Carter, 44, is team with university mountaineering groups in Inverness and for free instruction winter weekends.

The married father two runs his own guiding company, Alpi



Nick Carter

Mountaineering. In Inverness, his firm was at Chirnside Ben summit Loch Eil on he has worked at G more Logan the sea national outdoor as near Aviemore, an inside the highest of fraction in the Brit Mountaineering instructor scheme.

Mr Carter said: "many university courses this sector has been may not have experience or just the confidence to instruct beginners."

Heather Morris the MCCS said: "It's a fantastic opportunity for university clubs to help to obtain expert instruction during winter months, as well as to club or students."

Watchdog group vacancies

ELECTION

Candidates are being sought for Southton and Culoden Community Council which is being re-constituted after a period in abeyance.

Resignations reducing

the watchdog group to below half its membership of 13 have prompted an election to fill eight vacancies.

Nomination forms are available at Highland Council service points, can be downloaded from the

council's website or can be accessed via e-mail from elections@highland.gov.uk

Completed nomination forms must be submitted to Jimmy Plant, Ward Manager, Town House, High Street, Inverness IV1 1UJ by 4pm on May 28.

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Community Safety

Doorstep Selling Crime

Joint Working and Multi-Agency Operations 2014/2015

Project Officer: Kate Fontana



TRADING STANDARDS

Operational Project: Multi-Agency Activity 2014/2015

Key Findings

Roadside Checks:

- ✓ 314 businesses were given verbal advice
- ✓ 75 were also given specific written guidance
- ✓ 75% of those given specific guidance were new businesses
- ✓ A number of items were seized and investigations initiated

Operation Monarda:

Joint Police and Trading Standards enforcement weeks including educational and enforcement action on doorstep crime

Challenge Squads:

- ✓ Effective in identifying offending behaviour
- ✓ Positive feedback from both legitimate trade and consumer
- ✓ Visible deterrent offering reassurance to householders

Recommendations

- Multi-agency activity has demonstrated positive outcomes and should be continued
- Operation Monarda model be used as a best practice example for joint work on doorstep crime
- Retain Challenge Squad type enforcement as an effective means to identify and disrupt offending behaviour



Introduction

Doorstep Crime, in Trading Standards terms, can be defined as incidents that either involve an allegation of direct contravention of trading laws or where information has been received that relates to trader activity at a consumer's home where there is suspicion of the trading activity or the consumer has suffered as a result of poor or non-existent workmanship.

The type of criminal behaviour includes charging for unnecessary work, damaging property deliberately in order to obtain money, leaving work unfinished and intimidating behaviour in order to extort money.

Other common terminology for this type of activity refers to the perpetrators as rogue traders or bogus workman.

Background

Analysis of the doorstep crime incidents reported to Trading Standards for the last three financial years showed that more than three quarters of these incidents involved traders who were based out with the Highland Council area. Furthermore, whilst it is believed that the crime is substantially under-reported, there is no reason to believe that any increase in the number of reported incidents would decrease the percentage perpetrated by non-Highland based traders. An analysis of the data collected for 2014/15 is annexed to this report as supporting information.

It is known that offenders travel large distances to commit crime and often use their short stays in an area to frustrate detection. Those who have a pattern of committing trading standards offences are often involved in criminal activity in other aspects of their lives.

Project Statement

The aim of this project is to facilitate joint working with other law enforcement agencies to:

- utilise statutory powers to deter, disrupt and detect these offenders and take appropriate enforcement action;
- develop intelligence in respect of known suspects;
- raise public awareness of doorstep crime and provide reassurance thereby reducing the fear of crime;
- provide guidance to legitimate local businesses and raise awareness of the work being carried out to protect their interests and ensure a level playing field;
- promote partnership working and raise awareness of doorstep crime and its impact on the victims amongst the enforcement agencies involved.

Methodology

The proposal was for three strands of work:

Operation Monarda – Joint targeted operation on doorstep crime

A continued multi-agency programme of roadside checks on commercial vehicles, utilising partners previously involved in this type of activity and others as appropriate, spaced quarterly throughout the financial year and;

Targeted challenge squads involving Trading Standards and Police Scotland patrolling areas with significant doorstep crime incidents and approaching traders actively engaged in property maintenance work to ensure compliance with the relevant legislation.

1. Operation Monarda 2 & 3

A police led national campaign scheduled to coincide with Operation Liberal's UK wide 'rogue trader' campaign Operation Monarda 2 took place between 7th – 18th April 2014 and Operation Monarda 3 between 23rd March and the 2nd March 2015. These campaigns against doorstep crime focussed on areas of prevention, intelligence, enforcement and reassurance. The operation, which launched in Inverness, was designed to have significant impact in national and local press, including areas of social media, in order to raise public awareness. An officer was co-located with police staff for the duration of the campaign and Trading Standards participated fully in educational and enforcement activities and hosted trader drop in sessions.

2. Roadside Checks on Commercial Vehicles

A collaboration with Police Scotland N Division with a view to building on the partnership work already carried out in this respect.

From the review of previous multi-agency activity, it was recognised that the days of action were worthwhile and delivering positive outcomes for those involved and the wider community. Furthermore the legislation governing cancellation of contracts concluded in a consumer's home was replaced on 13 June 2014 with new legislation which introduced both information and cancellation requirements to such off-premises contracts.

Within Trading Standards an internal review was undertaken to reflect on our previous participation and identify opportunities for improvement. These included:

- reviewing and updating the guidance used as a result of the new legislation;

- building on information sharing with partners;

- an emphasis on advising all relevant businesses on the changes to the legislation;

- the promotion of the Construction Licensing Executive (CLE) as a mechanism for local businesses to promote their business and give consumers confidence that any trader they

pick is part of a trade association giving them added confidence and protection and; cognisance of changes to the requirement to display vehicle road fund licence discs in October 2014 with a decision made to continue to distribute the holders as stickers that could remain in the vehicle to provide quick access to relevant telephone numbers to report suspicious activity.

All the improvements identified were implemented once consensus had been reached for the quarterly programme of activity to be carried out. The Trading Standards Community Safety team were equipped with the revamped enforcement toolkit to allow them to deal effectively with all those spoken to during the operation.

The aim was to:

- ensure that those spoken to were aware of why the operation was taking place;
- advise of the legislation governing doorstep selling and informed of the enforcement role of trading standards;
- give the vehicle road fund license disc holders with details of how to report suspicious activity;
- promote and provide information on the CLE
- give the written guidance when required and;
- ensure any offenders were detected and dealt with appropriately.

Officers were also able to deal with requests for information or contraventions of other trading standards legislation.

There were minor changes to the quarterly programme in that the September multi-agency roadside check included the use of the drugs dog and was augmented by work carried out at Inverness Airport by the police stationed there. The second day in December was cancelled due to the adverse weather.

3. Challenge Squads

Building on work carried out in 2013 a programme of Challenge Days, comprising of a team of two: one police officer and one trading standards officer patrolling the streets to detect bogus traders at consumers' homes and provide assistance and enforcement, was implemented to cover the summer months. This joint working took place during the months of June to September 2014 and was targeted at those areas complaint analysis had shown were particularly affected by bogus workmen or doorstep crime. The joint teams were deployed 9 times during this time period and resulted in positive feedback from householders and the legitimate tradesmen spoken to.

Key Results

Operation Monarda 2 & 3

Both Operations generated intelligence which initiated a number of Trading Standards investigations.

Other outcomes included:

A week long P & J editorial on doorstep crime

Partners awareness training

1 arrest

1 caution for obstruction

7 referrals to HMRC

The seizure of misleading signs and leaflets

1 formal warning letter, and

2 joint reports to the Procurator Fiscal for trading standards offences.

Roadside Checks

A total of 314 businesses were given verbal advice of which 75 were also given specific written guidance relevant to their business activities. Three quarters of those given specific guidance were businesses who had not previously been known to Trading Standards or benefitted from business advice

A number of items were seized during, or as a result of intelligence obtained from the activity days

Enforcement action undertaken which later became evidence in an investigation into an Organised Criminal gang of bogus workmen operating nationally

Feedback from other agencies was that they had received positive outcomes that they may not have otherwise had because of the focus on light commercial vehicles/home improvement trade

Challenge Squads

Challenge Squads are an effective immediate identification of offences or breaches of legislation.

Analysis of complaints focussed activity on the Lochardil, Holm, Drakies, Dalneigh and Culloden areas.

The visits themselves are staffing and time intensive but resulted in positive feedback from both the legitimate trade spoken to and the householders where present.

The breaches found led to formal investigations and the activity itself clearly negates the problems of under-reporting; trader identity and location where breaches of legislation are found.

Recommendations

Multi-agency activity in the form of roadside checks continues to deliver positive outcomes and should be continued

Operation Monarda model should be used as a best practice example for joint work on doorstep crime

Challenge Squad type enforcement is effective when intelligence led but needs to remain flexible to cope with disruption such as inclement weather as this minor issue may determine the level of activity on any particular day.

Annex

1. Doorstep Crime Incident Analysis

ANNEX 1

Doorstep Crime Incident Analysis

Highland Council Area

1st April 2014 – 31st March 2015

Introduction

Doorstep Crime, in Trading Standards terms, can be defined as incidents that either involve an allegation of direct contravention of trading laws or where information has been received that relates to trader activity at a consumers' home where there is suspicion of the trading activity or the consumer has suffered as a result of poor or non-existent workmanship. These incidents are reported to Trading Standards by consumers, businesses and other agencies, or can be officer initiated. Poor workmanship, although legally civil in nature, often occurs after or as a distraction to the criminal activity that has taken place and adds to the stress of the situation for the consumer.

Trading Standards can report criminal matters directly to the Procurator Fiscal and/or seek an Enforcement Order against a trader (includes civil breaches), which if broken will enter the criminal legal process.

Analysis

During the above period, there were 209 doorstep crime incidents recorded by Trading Standards within the Highland Council area. It is believed that this not an entirely true reflection of the level of incidence experienced by our community. There are likely to be further incidents which have been reported to Police Scotland, or not been reported either because of the persona of the victim or a lack of education within the community. It is estimated that only 1 in 10 incidents are reported. Further to this, no easily identifiable method of reporting exists and the analysis conducted is subjective and depends on the level of detail of the information given in the initial recording of the incident which may well be out with the control of Trading Standards.

The following tables indicates the incidents reported, it gives an indication as to the operational base of the trader involved and an economic indicator as to the effect of doorstep crime in our community:

Trends:

The % of complaints received where the trader is not a Highland based trader is increasing year on year.

The Inverness area is where most activity takes place.

Assumptions:

The estimated financial loss to Highland residents is £1.75M.

The estimated financial loss to Highland businesses is £3.36M.

ANNEX 1

Highland Council area	2014-2015	
		% complaints
Total Complaints	209	100
Trader Highland Based	20	10
Trader not Highland Based	189	90
Total Investigations	43	
Total Contractual Value*	£336,855	
Total Victim Detriment**	£175,286	

Inverness area	2014-2015	
		% complaints
Total Complaints	103	100
Trader Highland Based	7	7
Trader not Highland Based	96	93
Total Investigations	n/a	
Total Contractual Value*	£75,003	
Total Victim Detriment**	£60,953	

*Contractual value is the price indicated to the victim.

**Victim detriment is a Trading Standards evaluated estimate of the financial sufferance of the victim, this includes, but not exhaustively; work abandonment where the victim has pre-paid in full, and estimates of actual worth of workmanship in cases where the victim has agreed to an inflated price.

Analysis by calendar month

Monthly Occurrences											
April	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	March
26	19	14	18	24	20	9	10	4	17	21	27

It can be seen that although attract less incidents, evidence of activity, and as such community detriment, exists throughout the year.

Analysis by trading activity

2014 - 2015 All Highland trading activity

Main Trading Type	Trading Practice 1	Trading Practice 2
Roofing	Bogus selling	Substandard services
Tarmac and Paving	Bogus selling	Failure to provide information
Gardeners/Tree surgeons	Bogus selling	Substandard services
Insulation	Substandard services	Bogus selling
Central Heating (Energy Install)	Bogus selling	Verbal misrepresentation

NB. All the main trading activities involve exterior home maintenance.

ANNEX 1

2014 - 2015 Inverness area trading activity

Main Trading Type	Trading Practice 1	Trading Practice 2
Roofing Insulation	Bogus selling Substandard services	High Pressure Selling Unfair Commercial Practices
Tarmacing and Paving	Bogus selling	Failure to provide information
Gardeners/Tree surgeons Decorator Services (Ext Cladding)	Bogus selling Bogus selling	Substandard services Failure to provide information

Community Safety

Tobacco & Other Age Restricted Products



Trading Standards

Environment Team Project 2014-15

Age Restricted Products Annual Report

Key Findings

- 3 test purchases exercises carried out – in one exercise 63% of retailers visited sold '18' classification video games and DVD movies to a 16 year old volunteer
- 9 unregistered tobacco retailers found in the Highland Council area as a result of tobacco enforcement activity
- 'Proxy Purchase' tobacco poster campaign launched
- Business guidance provided to local retailers to ensure legal compliance with age restricted products legislation

Recommendations

- Continue to work with local businesses, agency partners and the Scottish Government to protect young people in the Highlands from the affects of age restricted products.
- Continue to react to information and intelligence received on under-age sales



Age Restricted Products Annual Report 2014-15

Trading Standards is tasked with the enforcement of legislation in relation to the sale of age restricted products, including tobacco products, video games and DVD's, fireworks, intoxicating substances, and spray paints. Alcohol sales are currently dealt with by the police.

In respect of tobacco products, the Tobacco and Primary Medical Services (Scotland) Act 2010 places a duty on Scottish local authorities to enforce its' provisions and places an obligation on the Highland Council to carry out a programme of enforcement action in its area at least once every 12 months.

Highland Trading Standards has undertaken a number of enforcement initiatives throughout 2014-15 and this report highlights those activities carried out.

Test Purchasing

One of the enforcement activities carried out by Trading Standards is test purchasing exercises of age restricted products using under-age volunteers. These exercises are carried out under a strict protocol approved by the Crown Office and COSLA.

During 2014-15, three test purchase exercises of age restricted products were carried out. These involved under-age volunteers aged sixteen years attempting to buy products with an '18' age restriction.

Two of these exercises were carried out jointly with Police Scotland, where the volunteer attempting to purchase both tobacco products and alcohol together at retail shops with an off-licence. Twenty-five retailers were visited during the two exercises, with no sales of cigarettes being made, however one sale of alcohol was made to a volunteer and the police took appropriate enforcement action.

It is noted that the sale of tobacco products carries a fixed penalty of £200 (reduced to £150 if paid within 7 days) found to be selling tobacco to people under the age of 18 years you will receive a fixed penalty notice of £150. Whereas the police require to submit a report to the Procurator Fiscal on the sale of alcohol to a person under the age of 18, and in general a fiscal fine of around £80 would be issued.

A number of other statutory infringements were found during these test purchasing exercises including failing to register with the Scottish Government to sell tobacco products and failing to display the tobacco warning notice. Officers worked with retailers to ensure compliance was achieved.

Just prior to Christmas 2014, a test purchase exercise was carried out involving the sale of video recordings works (i.e. DVD movies and video games) with an age "18" classification. The 16 year old volunteer visited 11 retail premises in Inverness and was sold an "18" classification video work by 7 retailers, a 63% failure rate. The majority of the premises that sold to the under-age volunteer were national retailers.

The offence of selling a video recording to a person who has not attained the age classification, under the Video Recordings Act 1984, is one of vicarious liability, whereby both a business, as well as an employee who makes the sale, may be liable if a sale of an age restricted product is made to a person who is under-age. The Act does provide a defence, where it can be shown that the accused neither knew, nor had reasonable grounds to believe, that the purchaser had not attained that age. In all cases where a sale was made, there was no attempt to ask the volunteer test purchaser their age or seek any form of age identification.

The Act provides a general defence to a business, to prove that the commission of any offence under this Act was due to the act or default of a person, having taken all reasonable precautions and exercised all due diligence to avoid the commission of the offence by any person under his control.

Following further investigation of the procedures businesses had in place such as staff training, till prompts, etc, two warning letters were issued to businesses and two warning letters to sales staff.

A follow-up test purchase exercise to those seven premises where a sale was made is proposed for the coming months.

Staff training on the law relating to the sale of age restricted products was offered to the offending retailers, however no businesses have to date taken up this offer.

Trading Standards will continue to carry out test purchasing initiatives and react to information received on the sale of age restricted products to persons under-age, targeting any specific areas identified as a result of intelligence to reduce the illegal sale of age restricted products to young people in the Highlands.

Internet Sales

Trading Standards examined a number of internet based businesses selling firework pyrotechnics from to establish if they would sell “18” restricted fireworks to a person under the age of 18 years. This initiative was carried out following a complaint the previous year in which a Highland mother found her 16-year old son had been able to purchase pyrotechnic products, with an age restriction on sales of 18 years of age, from an online retailer without question.

Web-based retailers selling age restricted products have certain responsibilities to ensure products are not sold to persons under-age of the legally imposed age limits. Such businesses should have a robust checking system in place to show the business has taken sufficient steps to verify a purchaser is above the age restriction. This is in order to demonstrate a defence of due diligence and reasonable precautions should they need to rely on this if a sale take place to a person under 18 years of age. A number of online traders were found not to have in place appropriate systems in place to prevent an under-age sale, therefore the trading standards ‘home authority’ for these businesses were notified to consider taking appropriate action.

Intelligence

A significant source of information on sales of age restricted products to persons under age is received through intelligence.

Two allegations relating to a Highland retailer selling tobacco to persons under eighteen was received. The retailer was visited by officers and informed of the allegations and that regular test purchases are carried out. The retailer was advised that staff must act vigilantly at all times and seek evidence of a person’s age in relation to the sale of age restricted products. An offer of staff training was taken up and provided by a trading standards officer.

Complaints were also received from concerned members of the public concerned that stink bombs, correction fluid and BB guns were being sold to persons under age. These issues were all investigated referred to the appropriate enforcement authority.

Highland Festivals and Events

During the summer of 2014, officers attended local music festivals and events to carry out general enforcement work. Prior to these events, organisers provided contact details of the traders attending and business guidance was sent on how to comply with Trading Standards legislation including age restricted sales. Trading Standards are continuing to work with organisers of Highland festivals and events to ensure that tobacco retailers wishing to operate at events are made aware of the requirement to be registered with the Scottish Government and other statutory obligations under Scottish tobacco legislation, and form part of the contractual agreements.



Tobacco Retailers Registration

All tobacco retailers in Scotland require to be registered to sell tobacco.

The Scottish Tobacco Retailers Register (STRR) is administered by the Scottish Government however offences relating to the register are enforced by Trading Standards.

Throughout the year Trading Standards conducted an analysis on the Highland element of the STRR to identify any non-registered retailers. This analysis was undertaken during other enforcement activity. Nine unregistered tobacco retailers were found. A significant number of those unregistered retailers were found to be selling products known as blunt wraps, which the traders claim they were unaware are classified as “tobacco products” and therefore require the retailer to be registered in order to sell these products. Following intervention, the retailers concerned either ceased selling the products or became compliant by registration.

A number of retail premises have also changed ownership or closed down which requires a new registration as it is the business person, rather than the retail premises, therefore by failing to register these changes the retailer is in fact selling tobacco products illegally without a tobacco registration. In all cases the retailers became registered following Trading Standards intervention. Officers also assisted in undertaking a review of the Scottish Tobacco Retailers Register system in order to increase its integrity and effectiveness for enforcement officers.

At the beginning of the year 2014-15 the Highland Council has 469 registered tobacco retailers, but by the end of the year had 516. During the year officers were visited 11% of registered tobacco retailers in Highland to ensure compliance with all tobacco enforcement matters and provided advice and guidance, this compares with 31% across all Scottish local authorities. Highland officers carried out test purchases at 5% of premises compared with 9% by all local authorities.

Tobacco Display Ban

In April 2015, legislation prohibiting the display of tobacco products and other smoking related products, and requiring tobacco prices to be displayed in a prescribed manner, came into effect for all tobacco retailers. For the previous two years only “large” retailers were required to comply with these requirements, however now small shops, hotels and pubs are required to comply with the blanket ban on tobacco displays.



This gave cause for concern that these smaller shops which are generally “independent” tobacco retailers, without corporate backing, training and guidance, may find it more difficult to obtain information on how to comply. The Scottish Government arranged to send letters to all registered small retailers advising them of the impending ban, signposting to their local trading standards authority. This resulted in Highland Council’s Trading Standards receiving a number of enquiries from smaller retailers.

Education

Trading Standards Officers collaborated with NHS Highland's Smoking Prevention team in the preparation of lesson plans "Tobacco and the Law" which was rolled out to Highland Schools in 2014. There are two levels of these lesson plans, one aimed at primary school pupils and another for secondary school S4 pupils. The lesson plan packs include teacher notes, Q & A quiz sheets for pupils and an element for pupils to encourage parent/guardian participation, with the aim of increasing awareness among young people and those in their home environment of the laws involving tobacco sales and use.

Proxy Purchases

A purchase of cigarettes and tobacco products by an adult for a person under the age of 18, is known as a "proxy purchase" and the adult is committing an offence. Statistics among young people in Scotland found that nearly two fifths (39%) of 13 year olds who classed themselves as regular smokers said that they got someone else to buy them for them. For 15 year old regular smokers this figure was 56%. A third of 15 year old regular smokers asked an adult they knew to buy them cigarettes, while 28% asked an adult they didn't know to buy them cigarettes.

Proxy purchasing can be a difficult area to enforce, as the proxy purchase offence is committed by the person buying for the young person, not the retailer, and is something that generally cannot be detected via the test purchase route, and is something that generally would have to be observed. Therefore a more pragmatic public educational role was considered as an enforcement tool.

It was established that colleagues in Aberdeen City, Moray and Aberdeenshire Councils' Trading Standards had, in partnership with their NHS partner NHS Grampian, produced an A4 size shop poster highlighting the offence and the associated penalties. This is a very stark, thought provoking poster, showing the maximum £200 fixed penalty fine as £10 notes rolled up like a packet of 20 cigarettes.

Highland Council's Trading Standards was able to secure permission to reproduce the poster. NHS Highland was then approached and happy to support this campaign. The Highland Council contacted colleagues in Argyll and Bute Councils Trading Standards, to ask if they wished to consider joint approach as NHS Highland also covers their territory. It was agreed that the "confidential hotline" telephone number to be published in the poster would be that of the Highland Council's Trading Standards office number with arrangements put in place for relevant notifications to be passed to Argyll and Bute Trading Standards.

NHS Highland kindly funded the printing of 500 posters for the Highland Council to send out to all 469 registered tobacco retailers in the Council's area.

In October 2014, Highland Council's Trading Standards co-ordinated a public launch of the poster and education campaign, which shows strong and continued working partnerships.

Tobacco Enforcement Returns

The Highland council continues to provide quarterly returns to SCOTSS (Society of Chief Officers of Trading Standards in Scotland) on tobacco enforcement activity by the Highland Council to be collated with all other Scottish Authorities activity relating to age restricted sales and illicit activity elements of tobacco control.

Business Advice Requests

Officers regularly offer guidance, advice and staff training to assist Highland businesses with compliance with all matters relating to the sale of age restricted products.

Electronic Cigarettes

Although not currently an age restricted product, the Scottish Government recently consulted on whether electronic cigarettes and associated products should carry an age restriction on

sales and be subject to other tobacco legislation, such as retailer registration and removed from shop display. A Highland Council Trading Standards Officer has contributed to this consultation, in her capacity as the Chair of the North of Scotland Age Restricted Products Group of SCOTSS. It is looking likely that electronic cigarettes shall be given an '18' age restriction in due course.

Trading Standards shall continue to work with partners, the Scottish Government and local businesses to ensure compliance of age restricted products regulation across the Highland Council's area.

Community Safety

Tobacco Proxy Purchase Awareness Campaign

A campaign was launched aimed at increasing awareness that it is illegal for adults aged 18 or over, to knowingly buy or attempt to buy cigarettes, tobacco or cigarette papers for a person under the age of 18, known as a “proxy purchase”

A Scottish survey among 13 to 15 year olds, who said they were regular smokers, 54% reported they get someone else to buy them cigarettes from a shop. Among 13 year old regular smokers, this was most likely to be an unknown adult (35%) and 15 year olds reported getting them from either a known adult (32%) and an unknown adult (30%)

A poster highlighting the risks of buying cigarettes for children was produced by Highland Council’s Trading Standards in association with Argyll and Bute Council, with partnership funding by NHS Highland

Posters were mailed to over 800 registered tobacco retailers, 500 of these in the Highland Council area, for display to the general public outlining the offence and penalties

The poster provides a confidential hotline co-ordinated by the Highland Council’s Trading Standards for report proxy purchases

**BUYING CIGARETTES
FOR CHILDREN COULD
COST YOU A PACKET**

**IT IS ILLEGAL FOR
ANYONE 18 OR OVER
TO BUY CIGARETTES
ON BEHALF OF
ANYONE UNDER 18.**

**IF YOU DO, YOU COULD
FACE AN ON THE
SPOT FINE OF £200,
PROSECUTION AND
A CRIMINAL RECORD**

Smoking seriously harms you and others around you

© copyright Aberdeen City Council 2014

If you see someone buying cigarettes on behalf of children call our confidential hotline:

01463 228700

Trading Standards Service



Community Safety

Product Safety



Electrical Safety of Laptop & Mobile Phone Chargers

Key Findings

- 7 out of 17 (41%) laptop and mobile phone chargers products test purchased and sent for electrical safety testing were found to be non-compliant
- 6 of the failed products were mobile phone chargers, with 1 of 2 laptop chargers tested having failed.
- Enforcement action was undertaken to ensure these failed products were removed from the market

Recommendations

- Further examination and testing of electrical chargers be carried out to ensure compliance with product safety legislation
- consideration be given to a news release publishing the results and highlighting concerns to members of the public regarding the safety and use of electrical chargers



SCOTSS North Safety Sub-Group Project 2014/15

Safety of Electrical Chargers

Introduction

The national Citizens Advice Consumer Advice Service regularly receives complaints regarding alleged unsafe chargers, particularly those for use with mobile phones and laptops and commonly at the budget end of the market. These complaints are systematically reported to Trading Standards authorities for information and/or for further investigation. The most common issues complained about are electrical chargers exploding, causing electric shock and catching fire, with some reportedly causing injury to persons and damage to property. Therefore, there are concerns about the ready availability of cheap and poor quality chargers from local retailers and online sellers, where they can often be found for sale as cheaply as £5. There is also a concern that a number of those on the market may be counterfeit as well as unsafe.

Background

Chargers supplied with mobile phones and laptops have a limited shelf life and many new phones are now commonly supplied with USB only type chargers. Therefore, there is a ready market for consumers seeking to buy mains electrical chargers, as well as travel chargers for use abroad. This raises concerns that the consumer may not opt for the manufacturers' approved charger type and be tempted to buy cheaper "aftermarket" chargers. These low cost chargers are likely to be poorly made with perhaps less attention given to the products' safety. The availability of counterfeit products means consumers may think they are buying a compatible quality charger and are lulled into a sense of false security when they may be using a poor quality counterfeit product.

According to statistics provided by the Electrical Safety First (the campaigning name of the Electrical Safety Council charitable organisation), 1.8 million chargers are bought online in the United Kingdom each year for mobile phones alone. Unsafe devices often made in China for as little as 3p, means poor quality components and sometimes don't include safety features such as fuses. The United Kingdom has seen a six-fold increase in the number of counterfeit electrical goods seized over the previous four years.

In addition to these issues, many consumers are known to use electrical chargers they may already have in their homes for other electrical items to charge non-compatible electrical products, which can have similar safety implications to using a cheap or counterfeit charger.

In light of these concerns, it was agreed that a sampling project be undertaken to establish whether retailers and/or online sellers are supplying chargers that meet the relevant safety requirements of the Electrical Equipment (Safety) Regulations 1994.

Objective

This project was undertaken to establish, by sampling, examination and/or testing, whether electrical mains chargers for mobile phones and/or laptop available for general sale meet the relevant safety standards to comply with the principal safety requirements of the Electrical Equipment (Safety) Regulations 1994 (see appendix 1), by means of sampling and testing under BS EN 61558 -1:2005 + A1:2009 "Safety of Power Transformers, Power Supplies, Reactors and similar" (see appendix 2) as the basis for compliance. The Regulations require electrical equipment to be safe and constructed in accordance with generally accepted principles to ensure it is safe when connected to the electrical supply system. Failure to comply with the Regulations is an offence under the Consumer Protection Act 1987.

Results

Five Authorities participated, with all participating Authorities sending their samples to a test house for analysis.

The number of samples per authority and results are tabulated in Annex 5.

Seventeen electrical chargers were sampled and all were sent to test houses for analysis. Fifteen of those sampled were mobile phone chargers and two were chargers for laptops. A number of samples included travel chargers for use abroad. Angus Council included the test results of a product that had been tested prior to commencement of this project.

Seven products failed to comply in some way or another with the Electrical Equipment (Safety) Regulations 1994. Six of the failed products were mobile phone chargers. With one of the two laptop chargers tested having failed.

The most significant failures were found in one charger for an iPhone/ iPod that was sent for test by Angus Council. The product was considered to have an inadequate level of insulation and did not provide adequate protection against electric shock. There was no evidence of overload protection, potentially posing a risk of fire. This product was previously subject to a RAPEX notification, resulting in the permanent withdrawal from the market, surrender and destruction of the product under a voluntary recall.

One product failed on testing for short circuit and overload protection (clause 15 of BS61558) as its' poor construction could have caused the circuit board to become dislodged resulting in a short circuit. In addition it did not have an overload fuse present.

Of the other remaining chargers, the main failures were incorrect pin dimensions and product markings. Five chargers did not meet the required pin disposition, four did not have the manufacturers or importers details marked as required by BS EN 61558. Two products passed all tests but were not provided with instructions, therefore these have been recorded in this report as failed products, as according to both standards (BS EN 61558 and BSEN 60950), information should be provided on conditions and limitations of use and how to operate the charger safely.

Enforcement Action

The product sampled by Angus Council, was the subject of an earlier RAPEX notification, following its withdrawal from the market and surrender / destruction of the product under a voluntary recall.

The Highland Council purchased all their products online, directly from internet businesses and marketplace sellers using third party websites. The home authorities for the traders who sold failed products were notified of the results and are taking appropriate action in regard to these businesses based in their geographical area.

Aberdeenshire Council visited the retailers who had sold failed products and these were voluntarily withdrawn from sale and in one instance were seized. Follow up action in terms of contacting suppliers in the supply chain was being undertaken at the time of writing this report.

Conclusions and Recommendations

The High failure rate of 10 out of 17 samples tested strongly suggests there are significant safety issues with many electrical chargers, in particular mobile phone chargers (although only a small sample of two laptop chargers were tested). Therefore it is recommended that further examination and testing of electrical chargers should be carried out. Indeed, it is noted that SCOTSS is currently funding the Safety Sub-groups across Scotland to carry out sampling and testing of electronic cigarette chargers which are also giving cause for safety concerns.

Given the results and the concerns regarding the use of cheap aftermarket electrical chargers and the potential risk to consumers safety and their properties, consideration should be given to publishing the results and a news release issued to highlight the concerns to members of the public regarding the safety and use of electrical chargers.

Electrical Safety First has an excellent consumer guide on buying chargers (www.electricalsafetyfirst.org.uk/guides-and-advice/electrical-items/chargers/?gclid=CLq-z9zs3MMCFQMhwwodLIUA2A) and has also produced further specific guidance on the safe charging of mobile phone, laptop, tablet and electronic cigarette chargers respectively.

Therefore, a collaborative approach to publicity with ESF, and perhaps the Scottish Fire Service, could be given consideration.

However, having stated that, there is the caveat that some test reports were originally flawed and their integrity may be brought into question.

Project co-ordinator/Report Author: Susan Aird, Trading Standards, The Highland Council

Appendix 5
Table of Results:

Participating Authority	Pass	Fail
Aberdeen City Council	3	
Aberdeenshire	1	2
Angus Council		3
Highland Council	3	2
Moray Council	3	
TOTAL SAMPLES	10	7

Community Safety

Cosmetic Products Enforcement Project Report 2014/15

Introduction

From shampoos, creams, toothpastes, lipsticks and sun creams, a fairly large range of cosmetic products belong to the articles of daily use by men, women and children to enhance the appearance or odour of the human body. Most of these preparations are harmless however time after time there are critical public reports and discussions about several ingredients of cosmetic products and questions are often asked whether cosmetics can pose a major health risk.

On 11th July 2013 the Cosmetic Products Enforcement Regulation 2013 (Regulation (EC) No. 1223/2009 referred herein as “the new Regulations”) superseded the Cosmetic Products (Safety) Regulations 2008 as the main legal requirement affecting the European cosmetics industry.

The main provisions make it an offence to supply a cosmetic product that may cause damage to human health. There are also restrictions on animal testing of products, specific substances are restricted or prohibited, there are requirements for certain information to be held and for specific labelling. The labelling requirements include the name and address of the manufacturer or importer, the ingredients, durability marking, function, and precautions.

Environment Team – Cosmetic Products Project 2014/15

Key Findings

- Identified new cosmetic product manufacturers operating in the Highlands
- All Highland-based manufacturers given guidance on legal requirements
- 74% of cosmetic product manufacturers sampled are complying with the new EC Regulation on Cosmetics
- 5 major non-compliances identified in respect of safety assessment and notifying products centrally on CPNP
- 2 manufacturers did not respond

Recommendations

- Work with businesses to bring them into compliance and take further action as necessary
- Conduct a physical inspection of the 2 manufacturers that did not engage in the project to establish if they are complying with the law
- Continue to identify any new cosmetic producers found operating in the Highlands and provide them with any assistance and guidance as necessary to ensure compliance



Background

Previous projects relating to cosmetic products considered whether Highland-based manufacturers were complying with the Cosmetic Products (Safety) Regulations 2008 and involved the provision of information, guidance and assistance to bring any businesses into compliance.

Objective

The objective of the 2014/15 project was to identify all Highland-based cosmetics producers, establish if they are aware of their responsibilities and are complying with obligations under the new Regulations. These being in relation to new rules for the use of nanomaterials in cosmetic products, the introduction of reporting of serious undesirable effects (SUEs), centralised notification of all cosmetic products placed on the EU market, the introduction of the notion of 'responsible person' and strengthened safety requirements for cosmetic products.

The intention was for Trading Standards to provide information, guidance and assistance to bring any businesses into compliance and for follow up action to be taken in respect of any manufacturer who failed to return the form or who provided unsatisfactory or insufficient information in its return.

Results

2 new cosmetics manufacturers were identified by officers as trading in the Highlands and were added to the list of 26 manufacturers already registered. All 28 were sent the project documentation.

A total of 26 responses were received. 20 of these were in the form of returned questionnaires whilst the remaining 6 were either telephone calls or emails from businesses indicating they were no longer manufacturing or production had relocated to another local authority area.

The types of cosmetic products being manufactured in the Highlands ranged from the everyday soap bars/liquid soap/body wash, shampoo, conditioner and hair serum, bubble bath and bath bombs, body butter, creams and lotions, perfumes, lip balms and lip gloss to nail polish, anti-midge spray and massage oils.

14 manufacturers who returned questionnaires declared they were fully compliant with the requirements of the new Regulations.

5 manufacturers were found to be flouting the law by failing to notify their products on the Cosmetic Product and/or not having their cosmetic products assessed by a qualified assessor to ensure safety. These were considered to be major non-compliances requiring immediate action from the businesses concerned. In addition, 2 out of the 5 manufactures failed to fully complete sections in the questionnaire relating to product labelling and the information to be kept as part of the product information file, before returning it. A further 1 manufacturer indicated in its completed return it was not aware of the obligation to report serious undesirable effects (SUEs) to the Department of Business, Innovation and Skills (BIS) and Trading Standards.

2 manufacturers did not respond and have since been found to be no longer trading.

It is most common for Highland manufacturers to supply their cosmetic products via other independent retailers and their own website rather than in a shop or via a national retailer.

Conclusions

The project identified that 74% of the manufacturers sampled declared they were fully compliant with the requirements of the new Regulations. For those who were not compliant, the reasons were mainly due to their failure of having the cosmetic products assessed by an authorised assessor as part of the Cosmetic Products Safety Report (CPSR) and/or failing to notify products centrally on the CPNP. This appeared mainly due to ignorance of the new Regulations.

Although a response was not received from every cosmetic product manufacturer, the findings and statistics from the project are considered a

significant sample and are believed to accurately represent the operation of cosmetic product manufacturers in the Highlands.

Overall the project showed cosmetic producers in a very positive light with the overriding impression being that business are very much aware of the importance for their products to be safe to use.

Recommendations

necessary follow up action be taken in respect of the 5 manufacturers found to be in breach of the requirement to have their cosmetic products assessed by a qualified professional and/or to notify their products on the CPNP; and

- advice be given to the 1 manufacturer not aware of the requirements to report serious undesirable effects.

Officers should continue to identify and register on the Flare database any new cosmetics manufacturers found operating in the Highlands, and provide them with any assistance and guidance necessary to ensure compliance. Each business shall be risk assessed and classified with the appropriate risk factor. High risk premises shall continue to be inspected on at least once a year.

Table of Results

COSMETIC PRODUCT MANUFACTURERS OPERATING IN THE HIGHLANDS	
Previously unknown manufacturers found to be operating in the Highlands	2
Businesses included in the project	28
Businesses completed and returned form	19
Ceased trading / no longer trading in the Highlands	6
Businesses failing to return form	2
Total number of businesses currently manufacturing cosmetic products in the Highlands	22
Businesses declaring full compliance with the new Regulations	14
Businesses not complying with the new Regulations	5
Businesses requiring follow up action	7

Community Safety/ Fair Trading

Construction Products Report

Project Officer Richard Duncan



TRADING STANDARDS

Operational Investigative Project on EU Construction Products Regulations

Key Findings

- Eight products compliant
- Three products not compliant
- Two types of Eco-labels
- Lack of awareness of law and eco labels.

Recommendations

- Trader guidance on Regulations on Highland Council website
- Consumer guidance on eco-labels on Highland Council website
- Participate in future national enforcement projects



Introduction

Manufacturers, importers, manufactures representatives and retailers are facing significant change following the introduction of a new Regulation (EC) No. 305/2011 on construction products. The previous UK construction products regulations were only voluntary. The new EC Regulations are mandatory and construction product need to be consistently manufactured to a recognised standard; supplied with certain information and CE marking. This allows products to be placed on the EU market. The project sampled a range of product available to Highland consumers for compliance with the Regulation.

Background

In the 1st July 2013 the UK government enacted the Construction Products Regulations 2013, which require trading standards to enforce Regulation (EC) No. 305/2011 on construction products. This Regulation replaced the previous voluntary UK Construction Products Regulations 1991 (CPR) that implemented Council Directive 89/106/EEC. However, if a construction product was compliant with the 1991 Regulations and was placed on the market before 1st July 2013, it can still be

supplied. The Trading Standards Institute in partnership with four trade bodies produced a comprehensive guidance note on Regulation (EC) No. 305/2011.

Regulation (EC) No. 305/2011 details the steps required by an “economic operator”, i.e. manufacturer, importer, authorised representative or distributor, before a construction product is “placed on the market” i.e. supplied. A “construction product” is “any product or kit which is produced and placed on the market for incorporation in a permanent manner in construction works or parts thereof and the performance of which has an effect on the performance of the construction works with respect to the “basic requirements for construction works”. The Annexes explain the: seven “Basic Requirements for Construction Works” (BRCW); the format of the “Declaration of Performance” (DoP); the 35 product classes and the five methods of “Assessment and Verification of Consistency of Performance (AVCP)”.

A construction product must be manufactured harmonised European standard (hENs) or, if none exist, a European Technical Assessment (ETA) using the appropriate AVCP. This allows the economic operator prepares a technical file; a DoP and marked the product or produce accompanying documents provided, with the required information and the CE mark applied. The product can then be placed on the European market. However, if there are no hENs or ETA for the class of product it cannot be CE marked under the Regulation (EC) 305/2011. But it could still be placed on the market under the Mutual Recognition Regulation.

Product manufacturers may market their products with a voluntary “eco label” e.g. Blue Angel, EU Eco-label or Nordic Swan. An independent body examines the products environmental impact against selected criteria. If the product satisfies those criteria the eco-label can applied by the manufacturer. However different bodies use different criteria for the same class of products. Eco-labels originated mostly in Nordic or north European countries products and manufactures use them to show their products environmental impact.

Key Results

Eleven products were examined. Three were initially non-compliant; seven were compliant and the Regulation was not applicable for one product.

Two Highland double glazing window manufactures had compliant DoPs, but neither was fully compliant with the marking/accompanying information requirements. While both applied CE marks the other information required was incomplete. One manufacturer’s attached label was incomplete and the other manufacturer’s accompanying information was incomplete and spread over two or three separate documents, but it was unclear if these were being supplied to the consumer. Both manufacturers were given verbal and written advice; revised draft labels and documents checked and a second visit to ensure revised marking/ accompanying documents were used; resulting in both being brought into compliance. The manufacturer of a solar P.V. has not supplied a DoP, despite several requests, and the matter was passed to the Home Authority (HA) for action.

Seven products were compliant at the time of the visits. Five products were compliant with the Regulation (EC) No. 305/2011 and two products with the previous UK Construction Products Regulations 1991. Regulation (EC) No. 305/2011 became

effective on 1st July 2013, so it is unsurprising that some products in the supply chain would be compliant with the 1991 Regulations.

A Ground Source Heat Pump (GSHP) was CE marked, but not compliant with the marking requirements. Enquiries, with the assistance of the manufacturer's HA, determined there are neither hENs nor ETAs for this class of product, so could not be CE marked under Regulation (EC) No. 305/2011. The CE mark was to show compliance with other EC legislation. However it appears the product can continue to be supplied under the EC 764/2008, the Mutual Recognition Regulation. Details can be found at website <http://ec.europa.eu/DocsRoom/documents/5881>

The eleven products examined were: three double glazed uPVC window units (two from manufacturer/installers and one retailer/installer); four wood burning stoves; two biomass boilers; one solar PV and one GSHP. Eight products were examined at the retailers' premises; two at manufactures premises and one at the installation location.

The two Highland window manufacturers/installers had used the British Standards Institute (BSI) to help them comply and had an adequate understanding of the technicalities of the Regulation (EC) No. 305/2011.

Retailer/installers understood that construction products must be CE marked. No retailer/installers provided DoP when requested. Some offered: product test certificates; manufacturer's technical literature; product installation manuals and several MCS certificates. None can be used to show compliance. The Regulation was confused with various voluntary schemes i.e. MCS, HETAS trade association and DEFRA product markings for smokeless stoves. The DoPs were obtained from manufacturers' website or direct from the manufacturers' UK office.

Six products displayed an eco-label. The window manufacturers/installers products displayed the British Fenestration Rating Council (BFRC) energy efficiency label and supply BFRC documentation when the product is supplied consumers. But there was no consumer pre-contract information and both manufacturers stated consumers never requested information. All four wood burning stoves displayed the Nordic "Swan". But manufacturer's catalogues contained very limited information and that was insignificantly presented. There was no other consumer information and installers/retailers appeared to have little knowledge of eco-labels.

Conclusions

Highland windows manufacturer/installers appear to view the new legislation as a burden. Management time and capital was expended to formalise their existing manufacturing to comply with Regulation (EC) No. 305/2011. Products were unchanged and continue to be supplied to the mostly local market. It is disappointing that neither trader was initially fully compliant. It is perhaps more significant that although both traders were aware trading standards enforced the Regulation, neither contact us for compliance advice, relying instead on the information provided by the BSI. Traders expressed disappointments at the level of enforcement.

Retailer/installers displayed good product knowledge, but were largely unaware of Regulation (EC) No. 305/2011, beyond a general understanding of the marking requirements. Retailer/installers are classed a "distributors" under the Regulation and have some responsibilities for the products they supply.

The windows manufacturer/installers have an understanding of eco-labels, but do not actively promote them as a marketing tool. Retailer/installers appear to have little interest in the product eco-labels. It would appear it is left to the more motivated consumers to undertake their own product pre-purchase research.

Recommendations

Economic operators are not fully unaware of their responsibilities under the Regulation. Prepare guidance note summarising the Regulation; explain the different responsibilities of economic operators and trading standards role. Place the documents on the Highland Council website.

Prepare consumer guidance on most common eco-labels and place on the Highland Council website to increase their awareness.

Participate in any meaningful future Scotland wide or UK national enforcement compliance project or initiative.

List of acronyms used

AVCP - Assessment and Verification of Consistency of Performance

BFRC - British Fenestration Rating Council

BRCW - Basic Requirements for Construction Works

BSI - British Standards Institute

DEFRA - Department for Environment, Food and Rural Affairs

DoP - Declaration of Performance

ETA - European Technical Assessment

HENs- harmonised European standard

HETAS - Heating Equipment Testing and Approval Scheme

MCS - Microgeneration Certification Scheme

Fair Trading

Government Look-alike Websites Project



Government Look-alike Websites Project 2014/15

A project to identify websites that CHARGE for services provided FREE by government (e.g. HMRC) or government agencies (e.g. DVLA,), so-called COPYCAT websites.



These sites imitate official government sites and included passport renewal, driving test booking, car tax discs, and HMRC notices. They were convincing enough to make people pay for services which would ordinarily be cheaper or completely free through official channels.

- 2014 saw spike in complaints across Scotland but a much wider problem.
- More than 5,000 complaints were made to Citizens Advice in 2014 across UK
- 700 were made to the Advertising Standards Authority (ASA)
- Concerted [attack](#) by UK regulators and Government on copycat websites during 2014
- Focus on Google Ads and positive response by search engine company
- Significant drop in the level of complaints received during and since the project

Background

During 2014, Trading Standards received an increasing number of complaints and intelligence in relation to websites which appeared to be government/agencies but were in fact private companies which charged a fee to carry out an application or submission. These websites often appeared at the top of a web search for the relevant government service, and used colours/graphics/text similar to those used on the government website.

In addition to assessing whether the site mislead consumers into thinking it was the genuine government/agency site, they were also assessed for compliance with other legislation enforced by Trading Standards, e.g. distance selling, pricing, unfair contract terms, etc. The project did not include test purchasing of services and it was left to participating authorities to decide appropriate action (provide advice, referral to home/primary authority, warning letter, prosecution, etc) where breaches were detected.

Results

Number of websites examined: 56

Number assessed as virtually identical to genuine site: 2

Number assessed as being misleading due to absence or lack of prominence of warning statement: 18

Number non-compliant for other reasons: 43

Electronic Commerce Regs: 11

Distance Selling Regs: 10

Information, Cancellation & Additional Charges Regs: 19

*Unfair Terms in Consumer Contracts Regs: 4***Action**

Home Authority Referral: 11

Business Advice Letter: 5

Site Take Down: 4

Referral to Trading Standards Scotland: 1

Timescale

The websites were assessed between June and November 2014.

Participating Authorities

West Lothian, Glasgow, North Lanarkshire, Fife, West Dunbartonshire, Highland, Stirling

Conclusions

Based on the drop in the level of complaints received during and since the project was carried out, the problem with these websites seems to have been largely resolved. However, given the money that can appear to be made for so little effort it's probably just a question of time until something similar re-emerges. The FT Group are asked to consider whether it is worth publicising the fact that we did the research, found non-compliances, took the above noted actions and that now the problem is resolved. If it was considered appropriate to issue a press release it is recommended that it contain a statement to the effect that consumers should remain vigilant etc.

Fair Trading

Trading Standards and the Private Rented Housing Sector

Project Officer David MacKenzie



TRADING STANDARDS

Private Rented Housing Sector Project

Key Outcomes

- Improved understanding of Trading Standards input to rented sector issues
- Strong partnership built with Highland CABs and Citizens Advice Scotland
- Guidance materials on Trading Standards PRHS work produced
- Investigations undertaken and action taken on individual cases



Recommendations

- Further development of partnership working necessary
- Two enforcement projects to be carried out, one each on lettings and landlord sectors



Introduction

A key role of a modern Trading Standards Service is to respond to business practices that cause detriment to consumers, regardless of how or where they arise. Traditionally, Trading Standards receives few complaints about the Private Rented Housing Sector (PRHS) and it has not been a focus for Trading Standards work. However, new opportunities to deal with issues from modern legislation, allied with an increasing focus on consumer detriment, has meant that Trading Standards can ignore the PRHS no longer.

Background

In June 2014, the Competition and Markets Authority (CMA) published a detailed guidance document on the application of consumer laws to the PRHS. This followed some very extensive work carried out by the CMA and its predecessor, the Office of Fair Trading (OFT). The guidance makes clear that various laws enforced by Trading Standards will be applicable to problems arising for tenants in the PRHS.

Project Statement

The goal of this project was to explore the options for increasing the role of Highland Trading Standards in PRHS issues and to produce recommendations for future work activities.

Methodology

The project involved information gathering, consultation and analysis. Discussions were held with a wide range of relevant stakeholders, including the following:

- Other Council services with an interest in PRHS issues, e.g. Environmental Health, Landlord Registration and Planning
- Highland Citizens Advice Bureaux and Citizens Advice Scotland (CAS)
- Industry representatives from the lettings and landlord sectors.
- Colleagues in Trading Standards and the CMA

Key Results

A number of outcomes can be identified including:

- We now have a much better and broader understanding of the PRHS and how Trading Standards can interact with it.
- A summary of relevant Trading Standards matters was produced (see Appendix 1). This has been widely circulated among stakeholders and is used by officers as an aide memoire and guide.
- Partnership working with the Highland CABs and CAS has led to several investigations into problem landlords, some of which have already resulted in positive outcomes for consumers.
- Several workstreams were identified for implementation in 2015-16

Conclusions and Recommendations

These are as follows:

1. Partnership working with CAS and CABs on PRHS to be continued, strengthened and widened during 2015-16.
2. A Highland enforcement project to be carried out in 2015-16 on the lettings industry: guidance and self-assessment questionnaire approach to be used.
3. A Highland enforcement project to be carried out in 2015-16 on the landlord sector: guidance and self-assessment questionnaire approach to be used.
4. Further links to be built: e.g. with Shelter
5. Joint enforcement activities with other enforcers to be considered.

Fair Trading

Payment Surcharges Project Report

Project Officer Rebecca Brown



TRADING STANDARDS

Operational Investigative Project Payment Surcharges Project

Key Findings

- Surcharges imposed by a minority of businesses
- No booking fees charged by any business
- Internet is now seen as an important means of trade and self promotion
- Social media sites (eg Facebook and Twitter) are increasing used as an additional means of marketing

Recommendations

- No concerns were raised by the project
- Valuable method of making contact with the trade while also highlighting and educating them on new legislation



Introduction

There has been increasing concern over a number of years as to the amount charged by business for payments made by debit or credit card and other payment methods. These payment surcharges have been of particular note in the leisure and service sectors. (See Guidance Notes for Business in Appendix)

Background

A market study was carried out by the Consumer Association highlighting the detrimental effect this practice can have on market transparency. This was reinforced by the OFT.

Legislation was introduced in 2013 through the Consumer Rights Directive. The Consumer Rights (Payment Surcharges) Regulations 2013 came into force on the 13th June 2014. This prohibited traders from charging an excessive amount when accepting payments for goods or services by any particular payment method, for example credit or debit cards.

In view of this a project was proposed based on this new area of legislation.

Project Statement

To assess the level to which surcharges are used when different payment methods (eg debit or credit cards) are accepted by businesses, and whether the charge may be considered excessive.

Key Results

The survey covered a total of 192 Guest House/Bed and Breakfast establishments and 381 Hotels.

The key outcome of the survey shows that in a significant majority of premises a surcharge is not added to payments made by debit or credit cards or indeed any payment method. Of those that do charge it would appear that the amount charged is low at approximately 2%-2.5%. These are often due to costs levied by the banks or providers of the payment service. It is also worth noting, there were no instances where a booking fee was charged by the Guest House or Bed and Breakfast or Hotel.

A significant number of the businesses employ less than 10 people (calculated on a full time equivalent) many on a part time basis. Often the businesses are small concerns and run as a husband and wife venture and few additional employees are taken on.

This may be partly to keep costs low due the very seasonal and competitive nature of the market. But may also tie in with the earlier result where it was found that in a surcharges and booking fees are not charged by many of the businesses and to do so may make them less competitive.

In nearly every case businesses used the internet to promote and market themselves. Almost all had their own website and in a majority of cases also used at least one other means of promotion whether that be through Visit Scotland, brochure, newspaper or another website eg booking.com. In addition to this it is interesting to note that there is also an increasing use of social media sites eg Facebook and Twitter and many businesses now use these as an additional means of promoting themselves.

Conclusions and Recommendations

The intention of this project was two-fold. It was seen a valuable opportunity to offer business advice and education on a new area of law, while also assess the degree to which surcharges are used within this sector of the tourist industry.

- It is encouraging to note that surcharges were only charged in a minority of cases and of those that did the charge was low at 2% - 2.5%
- Booking fees were not found to be charged by any Bed and Breakfast, Guest House or Hotel
- In an effort to keep costs low the majority of premises employed less than 10 people
- The internet is now seen as a key way of promoting a business irrespective of size.
- Social media is being used in an increasing number of cases as another means of marketing a business.

The project did not raise any concerns. Most businesses do not add surcharges to the payment methods they use.

However it was a valuable method of highlighting to the trade and informing them on a new area of legislation that directly affects their business.

Payment surcharges – Guidance for Business

If you permit customers to make payment for your goods and services by a credit card or a debit card, and you make a charge for offering this payment facility, then you may be governed by the Consumer Rights (Payment Surcharges) Regulations 2012. The Regulations aim to clarify consumer rights in relation to the payment methods used when buying goods and services. This guidance seeks to explain these Regulations and how you may charge customers for offering these payment facilities.

The purpose of the Regulations is to:

1. increase price transparency, which will enable consumers to choose effectively between different products and services
2. make the charges reflective of the actual cost to your business
3. encourage fair competition

In the guide

- **Restrictions on payment charges**
- **Definitions of businesses and consumers**
- **Application of the Regulations**
- **Excluded business sectors**
- **Micro businesses and new businesses**
- **Excluded contracts**
- **Enforcement**
- **Consumers' right of redress**

Restrictions on payment charges

The Consumer Rights (Payment Surcharges) Regulations 2012 came into force on 6 April 2013 and apply to contracts entered into on or after that date. The Regulations will still allow a business to make a charge for credit or debit card payments.

Cost Borne by the Trader

If the customer has to pay a surcharge for using the credit or debit card then that surcharge must not be higher than the cost the business has to pay for processing that method of payment. The Regulations do not specify any maximum amounts as the costs should reflect the actual cost to the individual business of processing the payment.

Methods of payment extend beyond debit and credit cards and include (but are not limited to) cash, cheques, prepaid cards, charge cards, credit transfers and direct debits. As the technology relating to payments develops, any new methods of paying will also be subject to the Regulations.

A business can apply the payment surcharge on the basis of the average cost incurred in processing payment by a particular means.

Businesses may still also charge booking fees and administrative fees as long as these fees remain constant irrespective of the method of payment. For example, the booking fee will be £10 whether payment for the booking is paid by cash or by a debit card.

Definitions of businesses and consumers

The Regulations only apply to contracts concluded between businesses and consumers. A consumer is a person who enters the contract for purposes that are wholly or mainly outside the person's trade, business, craft or profession.

A business is a person acting for purposes relating to that person's trade, business, craft or profession whether they are an individual, partnership or an organisation.

Business to business contracts are not subject to the Regulations.

Application of the Regulations

The Regulations apply to contracts however they are concluded. They will therefore apply regardless of the method of sale. They cover contracts concluded on business premises, contracts concluded away from business premises, and those concluded at a distance (for example, a purchase via the internet or on the telephone).

Excluded business sectors

Some specific business sectors have been excluded from the Regulations. (see overleaf)
Micro businesses and new businesses

The Regulations will not apply to existing micro-businesses nor to all new businesses until 12 June 2014.

A simplified definition of a micro-business is a business with fewer than 10 employees (calculated on a full time equivalent basis) as of 6 April 2013 and thereafter. A new business is defined as one which a person, or a number of persons, or an unincorporated association, begin to carry on between then and 12 June 2014. The new business provisions do not apply to corporate bodies - that is, limited companies or limited liability partnerships.

The specific definitions of a micro-business and a new business within the Regulations are quite complex and legal advice should be sought if you believe you may be exempt from the Regulations until 12 June 2014.

After 12 June 2014 the Regulations will apply to all businesses (other than those categorised as exempt).

Excluded contracts

The Regulations do not apply to certain excluded contracts, which are listed below:

1. contracts for social services including social housing, childcare and support of families and persons permanently or temporarily in need, including long-term care
2. contracts for health services provided, whether or not via healthcare facilities, by health professionals to patients to assess, maintain or restore their state of health, including the prescription, dispensation and provision of medicinal products and medical devices
3. contracts for gambling within the meaning of the Gambling Act 2005
4. contracts for services of a banking, credit, insurance, personal pension, investment or payment nature
5. contracts for the creation of immovable property or of rights in immovable property
6. contracts for rental of accommodation for residential purposes
7. contracts for the construction of new buildings, or the construction of substantially new buildings by the conversion of existing buildings
8. contracts that fall within the scope of European law relating to the protection of consumers in respect of certain aspects of timeshare, long-term holiday products, resale and exchange contracts
9. contracts for the supply of foodstuffs, beverages or other goods intended for current consumption in the household, and which are supplied by a trader on frequent and regular rounds to the consumer's home, residence or workplace
10. contracts concluded by means of automatic vending machines or automated commercial premises
11. contracts concluded with a telecommunications operator through a public telephone for the use of the telephone
12. contracts concluded for the use of one single connection, by telephone, internet or fax, established by a consumer

13. contracts by way of execution or otherwise by authority of law

Further detail on these excluded contracts is available in the BIS guidance (see *Further Reading*).

Enforcement

The Consumer Protection from Unfair Trading Regulations 2008 are important in respect of the transparency and presentation of payment surcharges. Whilst the CPRs have no effect on the cost of any payment surcharge, they do prohibit any unfair commercial practices which may affect a consumer's transactional decision making. This could include misleading information or misleading omissions.

There are provisions for enforcing the Regulations in the Enterprise Act 2002 (Part 8 Domestic Infringements) Order 2013 as well as in the Regulations themselves.

If an enforcement body can establish a breach of the payment surcharges provision and demonstrate collective harm they can ask the court can grant an enforcement order. This can require that the trader does not continue or repeat the conduct. These orders are intended to prevent the usage of the unreasonable payment charges and to prohibit future breaches of the Regulations to protect consumers.

Consumers' right of redress

The Regulations also provide for consumers to be able to seek redress themselves irrespective of any public enforcement if the contract subjects them to an unreasonable payment surcharge. Regulation 10 states that where a business charges a fee in contravention of the prohibition against excess payment surcharges, payment of the fee is unenforceable or, if it has already been paid, the fee is refundable. The consumer may take legal action to enforce these rights and recover their money.

Further reading

The Department for Business, Innovation and Skills (BIS) has published guidance on the Consumer Rights (Payment Surcharges) Regulations 2012.

<https://www.gov.uk/government/publications/consumer-protection-payment-surcharges-regulations-2012-guidance>

Please note

This leaflet is not an authoritative interpretation of the law and is intended only for guidance. Any legislation referred to, while still current, may have been amended from the form in which it was originally enacted. Please contact us for further information.

Fair Trading

Pub Prices List Project 2014/2015

Project Officer – William Paul

Background

Historically pubs and other catering establishments were required to provide customers with an indication of prices. The legislation achieved this by way of prescriptive regulations that for a pub meant the prominent display of a price list.

The regulations changed in 2008 with a set of principles based rules being brought in under the Consumer Protection from Unfair Trading Regulations 2008, which although still recognising the potential importance of price to a consumer when making any transactional decision, made the need to display a price list less clear.

Current Advice for Business¹⁷

The current guidance provided to business is that although there is no longer any plainly-set-out obligation on pubs, cafes and restaurants to display prices, trading standards should advise them that they risk misleading their consumers if they do not, and the display of prices in menus and price lists, whether inside or outside the premises, will lead to informed consumers, who will be unsurprised by the price at the time of payment, and therefore less likely to complain.

The risk of consumer complaint and consequent enforcement action is the greater in premises that charge higher prices, whether on particular lines or across the board. Full display of prices in menus and price lists, whether inside or outside of the premises, will lead to informed consumers, who will be unsurprised by the price at the time of payment, and therefore less likely to complain.

Lack of Intelligence on Compliance

Although anecdotal evidence would appear to indicate that consumers are often dissatisfied by the absence or lack of clarity of pub prices, these concerns are rarely taken forward into making formal complaints and this is certainly borne out by the lack of such complaints received by Trading Standards.

Given however Highland's position as a popular tourist destination, with visitors not knowing what standards to expect and being less likely to make formal complaints, together with the small individual, but potentially significant cumulative consumer detriment suffered by all consumers as a result of overcharging, a project was agreed to be undertaken during 2014/15.

The project was simply to examine the impact of the regulation change and whether as suspected there had been a significant reduction in the display of price lists in pubs since 2008.



¹⁷ Local Government Regulation Advice on Pricing in Pubs, Cafés and Restaurants; 2011

Project Proposal

To target of a minimum of 50 licensed premises and ascertain the current position with respect to the display of prices.

Key Results



Pub Price List Project 2014/15



- **Task - Verify pub price list compliance in Highland**
- **Approximately 60% businesses visited compliant**
- **Room for improvement**
- **Advisory letters and guidance issued**

- 60 licensed premises across the Highland Council area were visited
- Visit outcomes were classified as 'Correct', 'Incorrect' and 'Marginal'. A 'correct' outcome was based on the premises having a suitable bar price list. Although bar prices lists are not explicitly required by the regulations, businesses being able to comply by other means, any premises this did not have a suitable price list was given an 'Incorrect' score. If a premise had a price list but for example it wasn't easily legible or perhaps positioned in only one bar of a multi-bar establishment, then this would result in a 'marginal' outcome.
- 35 Premises (58.3%) judged to be 'Correct'.
- 16 (26.7%) 'Incorrect'.
- 9 (15%) 'Marginal'
- Written guidance was provided to all the establishments visited.

Recommendations

Given that more than a quarter of this albeit small sample of licensed premises in Highland were judged not to be complying with the recommended practice of displaying a suitable bar price list, then the recommendation is that this project be repeated perhaps as part of a seasonal campaign.

Fair Trading

Highland Consumer Partnership

This partnership was the first of its kind in Scotland and continues to lead the way on joint work on consumer matters.

It brings together the different strengths of Citizens Advice and Trading Standards to promote fair trading and consumer protection across the Highlands. Involving Highland Council Trading Standards, Citizens Advice Scotland (CAS) and all eight Highland Citizens Advice Bureaux (CABs), it involves four main activity types:

- Advice and assistance for consumers in particular individual disputes
- The sharing of “intelligence” on problems encountered by consumers to inform enforcement action taken by Trading Standards
- Specialist advice on consumer law provided to CAB Advisers by Trading Standards staff
- Joint campaigning work

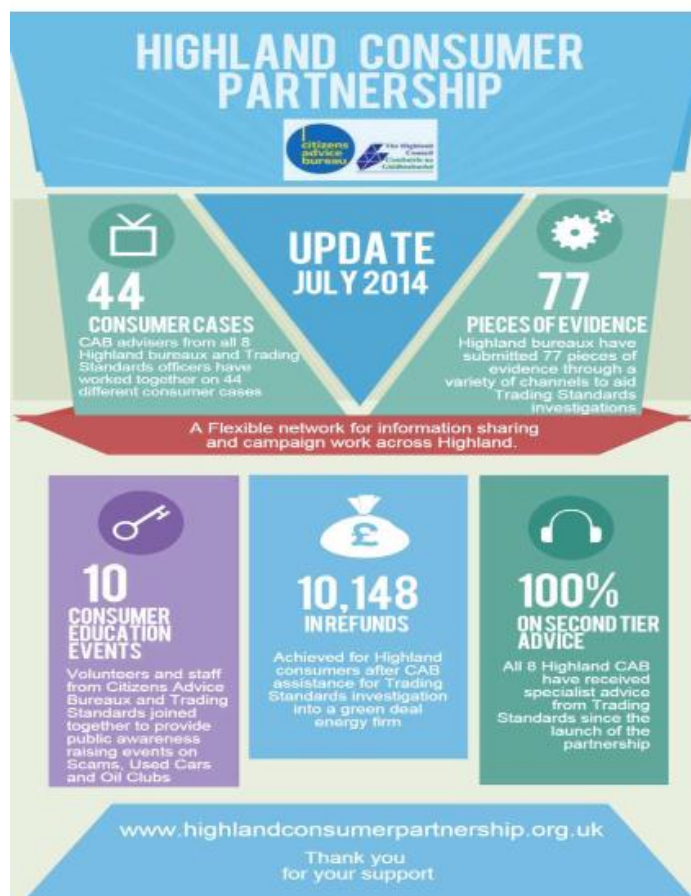
In November 2014, a “Toolkit for Partnership” guidance booklet was produced and supplied to all CABs and Trading Standards authorities in Scotland to assist in the setting up of similar partnerships elsewhere.

A wide range of successful outcomes have resulted from the partnership’s work. These include: contributions to “rogue builder” cases successfully taken to court by Trading Standards; refunds for a wide range of individual consumers; “takedowns” of scam websites and associated telephone and skype numbers.

A number of campaigning and consumer awareness events were organised by the partnership during 2014-15, including:

- “Spot Scams, Stop Scams” Scam Awareness Month, involving a series of community events and media work
- “It’s Not Fine”, supporting CAS’s national private car parking campaign to inform drivers of their rights
- The “Young Consumers of the Year Quiz”, a competition for school students organised by Highland Trading Standards and CAS to raise awareness of their consumer rights, with the regional final in Highland Council Chamber and the Scottish final in the Edinburgh Parliament.

Details of the partnership’s activities are at: <http://www.highlandconsumerpartnership.org.uk/>



Fair Trading

Motor Trade Newsletter



TRADING STANDARDS



MOTOR TRADE NEWSLETTER

May 2014



■ Consumer Credit changes

As of the 1 April 2014 the Office of Fair Trading (OFT) no longer exists and the Financial Conduct Authority (FCA) has taken on overall responsibility for consumer credit. Trading Standards will continue to have an involvement in consumer credit issues but that role will be different from what happened before 1 April 2014.

Many of the provisions of the Consumer Credit Act 1974 have been transferred over to the new financial services regime, including consumer credit advertising. Consequently traders looking for advice on credit advertisements (now called 'Financial Promotions') should first of all look to the FCA and their 'CONC' rules for guidance.

The *Financial Services Act 2012 (Consumer Credit) Order 2013* provides that Trading Standard's existing powers in the Consumer Credit Act 1974 will continue to apply to a "relevant offence" within a "relevant regulated activity", as defined in the Financial Services Act 2012 and the Financial Services and Markets Act 2000. What this means in practice is that the FCA will take the lead on consumer credit and we will have a shadow role. The FCA has recently established a Memorandum of Understanding (MOU) with Trading Standards and the MOU sets out who does what and the expectations of each party to the agreement.

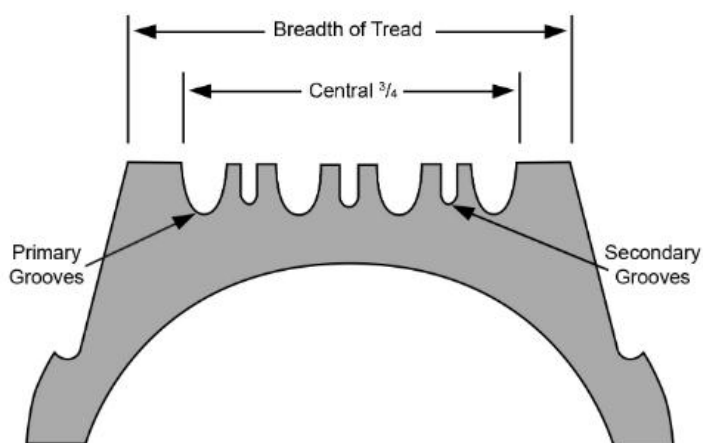
One of the expectations agreed in the MOU is that Trading Standards will continue to monitor consumer credit advertisements (financial promotions) on the ground and in the local media. We are also under an obligation to inform the FCA of any non-compliant issue (including financial promotions) and where appropriate we will remind Highland dealers holding FCA 'interim permission' status that any reported non-compliance will likely be taken into account by the FCA when the dealer has to apply for full FCA authorisation. These arrangements will we understand continue once traders achieve full authorisation.

See also - www.fca.org.uk/consumer-credit

■ Tyre Safety

Generally speaking, used cars whose condition conforms to MOT test standards are safe for the purposes of the General Product Safety Regulations 2005 and further details are set out in our online guidance form at www.highland.gov.uk/motortrade.

In our guidance we refer briefly to the safety of tyres. For the most part we would recommend a tread depth greater than the minimum 1.6mm and it would be reasonable to say that most car sellers will sensibly sell cars with satisfactory tyres to make sure consumers have reasonable use of their car before having to replace any tyre. Nevertheless a car could legally be sold if it meets the minimum tread depth and earlier this year the Driver and Vehicle Standards Agency (DVSA) issued some useful MOT tester guidance on how to properly assess tyres. The guidance may also be useful for car dealers as it clarifies which grooves are relevant when referring to minimum tread depth. See www.tinyurl.com/tyre-grooves for further details.



■ Trading Standards – administrative changes

The Highland Council has recently been reorganised and Trading Standards is now part of the newly created Development & Infrastructure Department which includes planning and economic development.

■ **Further information**

See our webpage for further information on Trading Standards and specific motor trade guidance

- **www.highland.gov.uk/motortrade**

Note: The Council's website is undergoing redevelopment to make it more smartphone and tablet friendly and some of the Trading Standards pages are partially complete.

Undisclosed Car Dealer Project



Undisclosed Car Traders Project 2014/15

A project to identify traders offering vehicles for sale on the website www.gumtree.com and other similar sites, posing as private individuals to purposely limit the rights of the consumer.

- Consumers who purchase cars “privately” have less protection from The Sale of Goods Act.
- In current economic climate, suspected many car traders are trying to restrict their obligations and liabilities by listing as a private seller.
- Sub-standard or misdescribed vehicles are more likely to be listed by these “disguised” dealers.
- Such actions could amount to unfair commercial practice under the CPRs. Other misleading actions or omissions may also apply.
- As part of Scotland wide project, potential undisclosed traders were identified, using the telephone numbers of sellers on Gumtree in the Highland area to determine if any were linked to multiple adverts.
- A Data Protection Authorisation request was sent to Gumtree to gain details of all adverts placed by suspected Highland undisclosed trader under investigation, after anonymous information was received.
- Confirmed as undisclosed dealer. Trader is no longer selling vehicles, after contact was made by TS.



Participant local authority Trading Standards services were asked to monitor www.gumtree.com and similar sites to establish if there were telephone numbers which appeared regularly in adverts for vehicle sales. The individuals behind those ads could be undisclosed traders.

9 Authorities participated and from those results a total of 13 individuals were identified as possible undisclosed traders. Please see table below.

In most cases where a trader has been identified, Trading Standards intervention has caused them to cease trading.

Authority	No. of potential traders identified	Outcomes
Aberdeen City		
Angus	2	Both individuals have ceased trading and have been issued with a warning letter.
Argyll & Bute	0	
Dumfries & Galloway	2	Currently potential traders are being monitored.
East Ayrshire	0	
East Lothian		
East Renfrewshire	1	Warning letter sent to trader initially, now investigation jointly with Police & HMRC.

Highland	1	Advice given. Trader will be asked to sign formal undertaking in terms of EA2002
Midlothian		
Moray	1	Warning letter sent to trader
North Lanarkshire	5	Advice given to one trader. No further action taken due to investigation problems.
Scottish Borders		
South Ayrshire	1	Advice given. Trader has applied for a second hand dealers licence. Further action pending.
West Dunbartonshire		
West Lothian		

Fair Trading

Distance and Doorstep Sales Regulations

Project Officer: Glenys Brown, Trading Standards Officer

Introduction



TRADING STANDARDS

Distance and Doorstep Sales Regulations Project

Consumer Contracts (Information, Cancellation & Additional Charges Regulations 2013)

Key Findings

- 967 Highland businesses sent self-assessment questionnaire
- An increase of 89% of average quarterly business enquiries received related to this project.
- 80% of Highland based distance selling businesses and 84 % of Highland based doorstep sellers unaware of new rules.

Recommendations

Distance sales businesses –

- Enforcement Officers to continue to monitor implementation and compliance of new rules

Doorstep seller businesses-

Follow-up visits planned 2015-16 to medium to large sized Highland based businesses (home improvement sector)



These significant new Regulations, covering consumer contracts for the supply of goods and services, including digital products have introduced some new complex legal requirements as well as new terms and definitions not previously used, which initially may be difficult for businesses to grasp and implement. (details of the regulations are attached as an Appendix)

A project covering Highland traders that contract off-trade premises, i.e. distance and doorstep sellers was initiated that was designed to identify and inform businesses affected and assess levels of compliance.

Approaching a thousand Highland businesses were provided with information about the implications of the new regulations and their views surveyed during the project, with 117 businesses contacting us by telephone and email seeking further information and advice. This represented a significant additional demand on the service during the life of the project.

A further project to address compliance by on-premises sellers (such as retail outlets; car sales showrooms; food outlets etc.) who are also affected by the above new legislation is proposed to take place in Autumn/Winter 2015.

Only 20% of businesses involved in distance selling who returned the survey stated that they were previously aware of the new Regulations, whilst only 15% of businesses undertaking doorstep sales were aware of the new requirements

Conclusion - Measuring compliance on Targeted businesses

The project results have established that further work is required to ensure that businesses become fully compliant.

Recommendations

Officers are due to contact targeted businesses and initiate the second stage to this Project, which will include businesses being directed to government guidance and where necessary the provision of tailored advice by Trading Standards to those SME's who require it.

Final results of the second stage of this Project will be available as part of Service Plan 2015-16

The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013

The above new Regulations are detailed and contain a number of provisions, important definitions and prescriptive requirements on both distance selling and doorstep selling. This leaflet can only give general guidance on the new Regulations and if you require any specific advice contact Highland Trading Standards directly.

The Regulations

The Consumer Protection (Distance Selling) Regulations 2000 (the Distance Selling Regulations) and the Cancellation of Contracts made in a Consumer Home or Place of Work etc. Regulations 2008 (the Doorstep Selling Regulations) were replaced on 13th June 2014 with the new Consumer Contracts (Information Cancellation and Additional Charges) Regulations 2013. The purpose of the Regulations is to ensure consumers are provided with important contract details about their rights both before and after they contract for goods, services and digital content.

The Purpose of the New Regulations

The Regulations cover consumer contracts made: on- business premises; off-business premises and by an organised distance sale/service provision scheme.

This leaflet only covers consumer contracts made off-business premises and by an organised distance sale. Although there are many similarities with the two previous regulations there are also significant differences.

Consumers will not be required to pay for the goods, services or digital content, if you do not comply with the relevant provisions of the Regulations.

An Outline of the Regulations

Definitions

An organised distance sale/ service provision scheme is a contract made without any “face to face” contact between the consumer and the business e.g. internet, telephone or postal.

An off- business premises agreement is where the contract is made at: a consumer’s home or workplace; an excursion organised by the business or another place that is not the traders’ place(s) of business.

The Regulations cover contracts for: contracts for: the supply of goods, inc. goods and services supplied together; contracts for services only and contracts for digital content by an intangible medium e.g. software downloads.

The following are excluded entirely from Regulations: gambling; financial services; newly constructed buildings and sale of immovable property; residential lettings; consumables supplied by a regular roundsman; package holidays; time share; vending machine purchases and a single telecoms connections e.g. public telephone.

Pre-contract information to the consumers

Prior to entering in to a contract consumers must receive the following information, applicable to contract type, in a clear, comprehensive and legible manner available in writing or a durable form e.g. e-mail. There are up to twenty-four pieces of information.

- the main characteristics of the goods/services/digital content
- your trading identity i.e. trading name
- geographical address and contact details
- if acting for another trader, their trading name and geographical address
- an address for consumer complaints, if different from the usual geographical address
- the total price
- delivery charges or how they are calculated and any additional charges
- the billing address for open ended contracts or subscriptions
- communication costs, if other than basic rate.
- arrangements for payment, delivery, performance, etc.
- any complaints handling policy
- details of any cancel rights, if they exist.
- who pays for any goods returned?
- limitation on cancelling a service that has commenced
- inform the consumer if there is no right to cancel
- a statement that goods must conform to the contract
- any after sales service, inc. guarantee
- information about any code of conduct, if applicable
- how to end a contract of indeterminate duration
- minimum duration of consumers' obligations
- deposits information
- digital functionality, if applicable
- digital compatibility information, if applicable
- any alternative dispute resolution (ADR) schemes.

Schedule 2 of the Regulations gives complete information.

Post-contract information to the consumer

When a contract is agreed the consumer must be given a signed copy or confirmation of the contract containing all of the above relevant information in a durable medium, e.g. e-mail or paper; no later than the delivery of the goods or the before a service begins.

Exemptions from information requirements

1. The following are exempt from the information requirement: supply of prescribed or dispensed medical products; passenger transport services and only for an off-premises contract not more than £42.
2. Subject to three conditions below information does not need to be provided for an off- premises contract for : a service contract and the service is for

repair or maintenance and the work is to be undertaken immediately and costs no more than £170. The three conditions for this exemption are:

- 2.1 The consumer is given the: trader's name (or if they are acting for another trader, the name and geographical address of that other trader); total price (or estimated price if this is not possible); any delivery charges and any cancellation rights.
 - 2.2 The consumer to be provided in a durable form: the main characteristics of the goods or services and details of any cancellation, if any.
 - 2.3 The cancellation right does not apply to goods and services for urgent repairs at the consumer's express request.
3. There are particular circumstances where an apparent off-premises contract is actually an on-premises contract. If a business visits consumers' homes and leave a quotation, or is supplied later, to allow consumers time to consider and enter into a contract at a later date; the new regulations apply. But this will be an on-premises contract. Consequently the business is only required to provide the smaller on-premises information in Schedule 1 of the Regulation and there are no cancellation rights.

Withdrawal or cancellation

- A consumer may withdraw before a contract is agreed with the trader.
- A consumer may also cancel a contract within fourteen days. The cancellation period was previously seven days.
- The cancellation period for services and digital content begins on the day the contract is made
- The cancellation period goods is the day they are received by the consumer.

Schedule 3 of the Regulations gives model instructions and model form for cancellation.

If you fail to provide cancellation rights the cancellation period can be extended to a maximum of twelve months.

A consumer can exercise their right to cancel by using the cancellation form; providing a clear statement to the business or cancel on-line. The consumer must return any goods within fourteen days and business must provide a refund within undue delay and within fourteen days from the day the goods arrive back. When a consumer cancels, all obligations, including any ancillary contracts, cease. Businesses cannot impose any fee or charge on the consumer e.g. restocking or administration fee.

There are no cancellation rights for the following: medical products or services; passenger transport services; goods or services subject to fluctuations on the financial markets; personalised goods or those made to the consumer's specification; goods that deteriorate rapidly; alcoholic drinks, subject to specific rules; urgent repairs and maintenance; publications; public auctions; the supply of accommodation, transport of goods, vehicle rental, catering or leisure activities;

unsealed goods for hygiene reasons; unsealed audio or video recordings or computer software and goods which cannot be separated after delivery.

Summary of cancellation rights for different contracts

Type of contract	Cancellation period ends
A service contract	14 days after the day on which the contract was made
The supply of digital content not supplied on a tangible medium	14 days after the day on which the contract was made*
A sales contract (goods or goods and services) but see below	14 days after the day on which the goods come into the physical possession of the consumer or the person that she asks you to deliver the goods to
A sales contract consisting of an order for multiple goods, which are delivered on different days	14 days after the day on which the last of the goods come into the physical possession of the consumer or the person that she asks you to deliver the goods to
A sales contract consisting of an order for multiple lots or pieces, which are delivered on different days	14 days after the day on which the last of the lots or pieces come into the physical possession of the consumer or the person that she asks you to deliver the goods to
A sales contract for regular delivery of goods during a period of longer than one day	14 days after the day on which the first of the goods come into the physical possession of the consumer or the person that she asks you to deliver the goods to

Performance of the contract

Goods must be delivered or the service commenced within 30 days, unless otherwise agreed with the consumer. The business retain the risk in goods till they come into the physical possession of the consumer.

Offences

It is a criminal offence in an off-premises contract, if the consumer is not provided with: relevant information on cancellation rights; who pays for returns and cost of cancelling a service contract. On summary conviction the maximum fine on is £5,000.

Failure to comply with the other provisions of the 2013 Regulations may be offences under the Consumer Protection from Unfair Trading Regulations 2008.

Other

The 2013 Regulations are in addition to other consumer protection legislation, such as the Sale of Goods Act 1979 and the Scots common law provisions regarding services.

This leaflet has been prepared for the guidance of businesses operating in Highland. This list of legal requirements is not exhaustive and may change over time. It is based upon this Service's opinions and on points identified in inspections and through complaints. Please note that only the Courts can interpret the law. If you require any more information or advice about any of the legal requirements listed here please contact your local trading standards service. Highland Council Trading Standards can be contacted at: 38 Harbour Road, Inverness, IV1 1UF, Telephone: 01463 228700; email: trading.standards@highland.gov.uk. www.highland.gov.uk/businessinformation/tradingstandards/tsadviceforbusiness

Tourism

Analysis of Tourist Complaints 2014-2015

Project Officer Lynn Foster

Introduction

Trading Standards has been analysing tourist complaints for four years now, which has enabled us to see patterns developing. It also has continued to give us a better insight into any problems in the tourist sector.

Background

Trading standards started the analysis because we recognised that tourism is one of the main industries in the Highlands and is extremely important to the highland economy. Over the last four years we have built up a close relationship with the Quality Assurance Section of VisitScotland. They originally approached Trading Standards to get advice regarding businesses they had received complaints about. A procedure was set up to allow VisitScotland to refer complaints to Highland Council Trading Standards as notifications. Complaints about businesses in other areas of Scotland are forwarded onto the Trading Standards Authorities in that area by Highland Trading Standards. Businesses displaying the VisitScotland Quality Assurance Scheme plaque outside their premises or on their websites must have become members of VisitScotland and graded to a certain standard to be allowed to show an award plaque like the one below.



Misleading display referrals are passed from VisitScotland to Trading Standards so further investigations can be carried out as there may be possible offences under the Consumer Protection from Unfair Trading Regulations.

Project Statement

The purpose of the project is to have the opportunity to analyse all tourism civil and criminal complaints and take enforcement action or provide advice to businesses where necessary.

Methodology

The notifications and referrals are passed to the Fair Trading team for analysis to see whether any Trading Standards action is required. All the complaints are then logged on a spread sheet which details the traders name, address, TS reference number, what type of business they are, what the complaint is about, if they are a member of VisitScotland, and what action is going to be taken. The spread sheet is then analysed twice a year to see patterns developing or identify and problem traders.

Key Results

There was a drop in complaints this year to 94 compared with 117 during 2013/2014. There could be a number of reasons for this slight decline, less people having holidays in Scotland, less people reporting complaints or increased standards of service.

We continued to report how many complaint referrals required further investigation as they allege possible criminal offences. Out of 94 complaints received throughout 2014/15, 20% had to be investigated further.

Self-catering complaints increased by 5%. Guest House complaints dropped by 6% as did complaints in the category attractions/transport/food by a significant 13%. For the third year in a row there were more hotel complaints than any other type of complaint.

The reasons for complaining were detailed as the following –

- Standard of facilities complaints increased by 1% this year.
- Standard of service complaints went down by 10%.
- Standard of cleanliness complaints increased by 11%.
- Attitude complaints went down by 5%.
- Disagree with QA award went down by 3%.
- False claims complaints stayed the same.
- Pricing complaints increased by 10%.

There are three businesses that we have highlighted will require business advice from Trading Standards which may result in a visit to their premises. We will continue to monitor their activities this year. One business has pending enforcement action against it under the Enterprise Act.

Complaints against VisitScotland members continued to fall for the second year in a row.

Conclusions and Recommendations

This joint working project with VisitScotland over the last four years has been very successful and has highlighted problem traders we may have not been notified of in the past. We have an annual meeting with VisitScotland to discuss any issues which have come up in the previous year and it also allows us to highlight to VisitScotland any project work we are undertaking in the coming year. We continue to provide business advice to local businesses which in most cases has been received positively.

We continue to advise tourist businesses that were not aware that they could come to Trading Standards for advice or guidance leaflets. The guidance is available on the Trading Standards page of the Highland Council website and on a new business advice website we are promoting Business Companion.

Trading Standards will continue with the project during 2015/16 as every year new problems are flagged up which shows there is a continued need for this type of project.

Appendix – Tourism Related Complaints Analysis 2014-15

No of Complaints rec	Types of complaints against premises	Complaints rec about VS businesses	How were the complaints rec	Reason for complaint (% of issues raised)
94	Hotel 36	31	VS - 54	1 Standard of Facilities 21%
	Guest House 8		CACS - 35	2 Standard of Service 13%
	B&B 11		TS - 4	3 Standard of Cleanliness 16%
	Self-Catering 27		EH - 0	4 Attitude of owner/manager/staff 13%
	Hostel 6		CRM - 1	5 Disagree with QA Award 5%
	Caravan/Camping 0			7 False Claims 11%
	Attractions Transport/Food 6			8 Pricing/Refund issues 21%
There were 23 less complaints than last year	For the third year in a row there were more hotel complaints than any other type of complaint	Complaints against VisitScotland members continues to fall		Standard of facilities complaints increased by 1% this year. Standard of service complaints went down by 10%. Standard of cleanliness complaints increased by 11%. Attitude complaints went down by 5%. Disagree with QA award went down by 3%. False claims complaints stayed the same. Pricing complaints increased by 10%.

E-commerce

Internet Sales and Delivery Problems

The internet is a very valuable tool for consumers and small businesses, especially those living in remote and rural areas such as most Highland residents. A wide range of goods can be accessed without expensive trips to big cities. Goods and prices can be more easily compared and many internet sellers offer an excellent service.

However, the thorny issue of the delivery of items bought at a distance can cause difficulties. For several years, it has been one of the most complained about aspects of the buying experience of people in the Highlands. False claims of “free mainland delivery”, unexpected, undeclared and high-cost surcharges and refusals to deliver to remote areas are just three of the problems encountered. For the last few years, Highland Trading Standards has taken a systematic and targeted approach to tackling these problems. This has involved: consumer surveys; publicity campaigns; joint working with political representatives and a wide range of other partners; contacting a large number of individual companies to ensure that they treat Highland consumers fairly. These activities have resulted in real positive outcomes for Highland consumers¹⁸. The situation has improved significantly since 2011. However, problems persist and consumers and businesses are still reporting these to Trading Standards, so the work continues.

In 2014-15, the focus was three-fold:

1. Promoting and helping to widen the remit of the Statement of Principles on Parcel Delivery¹⁹. This is a Best Practice document for fair internet delivery which covers issues such as surcharges to rural areas. It was put together by a working group led by the Scottish Government, which had Highland Council Trading Standards as a central contributor along with Citizens Advice Scotland, Consumer Focus, Scottish Retail Consortium, Federation of Small Businesses and the Office of Fair Trading. 2014-15 saw it adopted as a UK-wide document, endorsed by the UK Government Business Department (BIS), Citizens Advice and the Chartered Trading Standards Institute (CTSI). Highland Trading Standards uses the document in all its interactions with individual internet sellers and trade bodies.
2. A continuation of “on-the-ground” contact with businesses to ensure at least minimum legal compliance (e.g. early declaration of surcharges, no false claims), but aiming for the best practice to benefit Highland buyers (e.g. no surcharges). During the year, 146 complaints about internet delivery were received by Highland Trading Standards. About half of these involved failure to deliver a purchased item, the other half were about delivery surcharges and related matters.
3. Assistance to other local authorities dealing with similar problems, in particular those covering the North-East and the Highlands and Islands of Scotland. Standard documents, guidance on best-approach procedures and ongoing advice when needed were all provided. Officers in other local authority areas dealing with internet traders due to problems suffered by their local consumers invariably results

¹⁸See www.highland.gov.uk/download/meetings/id/23642/item_9_tec5713

¹⁹ See https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/337754/bis-14-973-Statement-of-principles-for-parcel-deliveries.pdf

in a knock-on positive outcome for future Highland consumers of these same businesses through improvements to websites and delivery practices.

Looking forward to 2015-16, this work will continue. The Statement of Principles will continue to be promoted and options for its inclusion in one or more quality assurance schemes will be considered. Partnership working will be central to this aspect.

Further, there will be some concerted work on e-marketplaces²⁰ where a significant proportion of internet sales occur, and Highland Trading Standards will lead a Scotland-wide project on new obligations for internet sellers, that came into force during 2014. These include a new specific requirement to declare any delivery restrictions at the beginning of the delivery process.

²⁰ i.e. multi-seller platforms such as Amazon, internet auction sites like eBay and product specialists like Autotrader

Consumer Credit

2014-15 saw a change in the way consumer credit is regulated in the UK. The Office of Fair Trading (OFT) was replaced by the Financial Conduct Authority (FCA). The FCA has been given stronger powers than that of the OFT and a wider remit.

The main change for Trading Standards is that the FCA takes over the lead role for the regulation of credit advertising. Trading Standards retains its role in dealing with a wide range of consumer credit activities, including:

Illegal moneylending,

Unfair “ancillary” practices (e.g. overly aggressive debt collection)

Issues surrounding credit funding for consumer purchases (e.g. credit cards, hire purchase)

Problems encountered by Highland borrowers regarding “high risk high cost”²¹ loans

A theme of the work done in 2014-15 by Highland Trading Standards on high cost/high risk credit is that the problems included, but were not limited to, payday loans.

Early in the year Highland Trading Standards (on behalf of all local authority Trading Standards services in Scotland) reported the findings of an enforcement project carried out on March 2014 on payday loan advertising.

Since then, there has been an improvement in the situation regarding payday loans, partly due to some good groundwork done by Trading Standards but also due to the efforts and focus of the FCA. Dubious firms have been removed from the market, fewer unaffordable payday loans being given out and the advertising is generally less misleading. An interest cap has been imposed on payday loans.

Accordingly, during the year, Highland Trading Standards turned its attention to other forms of high cost lending. One of these is the practice known as “buy back”. This involves consumers handing in items such as mobile phones, TVs, jewellery, etc. to a company in return for a sum of money. The consumer then has 28 days to buy the item back at a higher amount than (s)he received.

We think that this is pawnbroking masquerading as something else. What is really happening is that the consumer is getting a short-term loan, secured by the item handed in and then has 28 days to repay the loan plus interest or (s)he loses the item.

The reason this matters is that pawnbroking agreements have built-in statutory protections: e.g. the consumer has six months to find the money to get the item back and receives very clear paperwork and warnings and reminders about the risk of losing. With buy back, it is typically just 28 days, with no warnings or paperwork or cancellation rights. Further, typical interest rates for buy back agreements are around 3000% APR (Annual Percentage Rate). This compares unfavourably to typical pre-cap payday loans APRs of around 1500% and typical pawnbroking agreements with 50% to 80% APRs.

²¹ i.e. “sub-prime” loans aimed at borrowers who have bad credit histories or otherwise have difficulty obtaining mainstream loans from banks. Examples are home-collected credit, pawnbroking, “logbook” loans.

These buy back agreements are popular throughout Scotland and intelligence received by Highland Trading Standards show this includes the Highlands.

Few actual complaints are received, partly through the “embarrassment factor”, but also because consumers do not realise that they may be getting a poor deal and so the detriment is “hidden”.

Many of the consumers who opt for such agreements are vulnerable and in very difficult financial circumstances.

However, buy back in its current form is apparently legal as it is not deemed to be “credit”. Highland Trading Standards thinks that there should be a review of the definition of consumer credit to include buy back, thus introducing important and necessary consumer protections.

A paper was submitted to the FCA which is the body with the powers to effect this change. An initial positive response was received from the FCA and it is understood to be considering this matter at a high level.

Pawnbroking & 'Buy-back' – legal examination under Scots & UK Law

William Paul - Highland Council Trading Standards

Background

Many high cost credit providers operate what are referred to as 'Buy-back' schemes whereby the finance business offers to buy an item from a consumer with immediate payment and at the same time enter into an agreement offering the seller the right to buy-back the same item on payment of a fee. This fee is typically 20-30% of the initial value of the item.

The franchised credit business Cash Generators (branch in Inverness) state on their website:

If you need instant access to short term cash, our Bring 'n' Buyback service can get you cash in minutes without the need to lose your goods forever.

It's simple. You bring it. We buy it. You buy it back again!

Bring your everyday items of value to store (such as TVs, games and games consoles, PCs, laptops, jewellery, separates, cameras, DVDs and DVD players, hi-fis, power tools, musical instruments and much, much more...).

We'll buy your items from you for instant cash. You walk away with money and the assurance of being able to buy back the goods within 28 days.

When you're back in the black, you can purchase the items back within 28 days and walk away with your goods in minutes.

Source: www.cashgenerator.co.uk/services/buy-back-facility 9 October 2013

The screenshot shows the Cash Generator website interface. At the top, there is a logo for 'CASH GENERATOR' and a search bar with the text 'Select category'. To the right of the search bar are links for 'Login', 'Locations', 'Services', and a currency selector set to '(£0.00)'. Below the search bar, the breadcrumb trail reads 'Home / Our services / Buyback'. On the left side, there is a vertical navigation menu with sections: 'Buying Department' (Instant Cash, Buyback, Cash for gold, Pawnbroking), 'Bag a Bargain' (Buy in Store, Buy Online, Reserve It), and 'CG Finance' (Personal loan, Short term loan, Cheque cashing, Travel money, Western union, Retail Credit). The main content area features the heading 'Bring 'n' Buyback' and the text: 'If you need instant access to short term cash, our Bring 'n' Buyback service can get you cash in minutes without the need to lose your goods forever.' Below this, there are three paragraphs of text: 'It's simple. You bring it. We buy it. You buy it back again!', 'Bring your everyday items of value to store (such as TVs, games and games consoles, PCs, laptops, jewellery, separates, cameras, DVDs and DVD players, hi-fis, power tools, musical instruments and much, much more...)', 'We'll buy your items from you for instant cash. You walk away with money and the assurance of being able to buy back the goods within 28 days.', and 'When you're back in the black, you can purchase the items back within 28 days and walk away with your goods in minutes.' There are also links for 'To get an online valuation of your goods, click here or find your local store.' and a note: 'A storage and handling fee applies. Proof of ID and address required.' At the bottom of the main content area, it states: 'ID required is typically one proof of address dated within the last 6 weeks, e.g. a current utility bill plus one proof of signature e.g. driving licence. Please contact your local store for more details.' On the right side of the page, there is a vertical graphic titled 'BRING 'N' BUY BACK' with three steps: 1. 'You bring it!' (showing a TV and game console), 2. 'We buy it!' (showing a fan of cash), and 3. 'You buy it back again!' (showing a TV and game console with a '28' day timer).

It is apparent that businesses offering these buy-back facilities do not consider that these contracts are pawnbroking agreements, otherwise they would be subject to the time-limits and rules set out under the Consumer Credit Act 1974.

Nevertheless at first sight and from a regulators perspective it is difficult to see why these agreements are not pawnbroking agreements. The purpose of this review is to examine the legal arguments and to perhaps challenge the status quo.

Legal background

In Scotland, there are six basic forms of security:

- a standard security
- a floating charge
- a lien
- a hypothec
- an assignation in security
- a pledge

The form of security used in traditional pawnbroking is a 'Pledge'. The Scottish law commission Report (DP151) published in June 2011 explained that pledge has the meaning:

“Security over corporeal moveable property constituted by delivery to the creditor. For example if Jack goes to a pawnbroker, and borrows money on the security of an antique clock that he hands over the counter, the clock has been given in pledge as security for the loan. Pledge is sometimes thought of as a sale with right of redemption, but that is inaccurate. The debtor remains owner unless and until the lender, following default on the loan contract, sells the object. Occasionally the term is used in a broader sense to mean any kind of security.”

It is also important to note that:

“The general rule of Scots law is that a fixed security over corporeal moveable property requires possession of the property by the creditor. It is customary to describe this possession in security as a pledge where it is created by agreement between the creditor and the debtor and as a lien where it is created by operation of law. Both common law and statute have admitted exceptions to the general rule but these exceptions are not numerous and do not substantially detract from the general rule.” Halliday Report 1986.

Consumer Credit Act 1974 & Pawnbroking

Traditional pawnbroking is evidently subject to the rules and regulations²² of the Consumer Credit Act 1974 (the Act) and it is clear that Parliament intended this ancient form of finance to be subject the Act. In the Act “pledge” means the Pawnee’s rights over an article taken in pawn. In other words the borrower pledges or agrees to allow the sale of the item in the event of non-payment. The ‘Pawnee’ is the lender and the ‘Pawnor’ is the borrower. Pawnbroking is also clearly ‘consumer credit’. Specifically Regulation 8 of the Act defines a ‘consumer credit agreement’ as

²²

The Consumer Credit (Realisation of Pawn) Regulations 1983
The Consumer Credit (Realisation of Pawn) (Amendment) Regulations 1998
The Consumer Credit (Agreements) Regulations 1983
The Consumer Credit (Loss of Pawn-Receipt) Regulations 1983
The Consumer Credit (Pawn-Receipts) Regulations 1983
The Consumer Credit (Conduct of Business) (Pawn Records) Regulations 1983

an agreement between an individual (“the debtor”) and any other person (“the creditor”) by which the creditor provides the debtor with credit of any amount. A consumer credit agreement is a regulated agreement within the meaning of this Act if it is not an agreement (an “exempt agreement”). ‘Credit’, which is defined in Section 9(1) of the Act as “credit” includes a cash loan, and any other form of financial accommodation. These wide ranging definitions are designed to cover all forms of existing and future credit provision.

Pawnbroking versus Buy-Back

The question to begin with is surely - is ‘buy-back’ credit?

The offer from cash generators states:

“If you need instant access to short term cash, our Bring ‘n’ Buyback service can get you cash in minutes without the need to lose your goods forever.”

This statement could be easily altered to say:

“If you need instant access to short term cash, our PAWNBROKING service can get you cash in minutes without the need to lose your goods forever”.

What separates Pawnbroking from Buy-Back is likely to be decided partly on the basis of what the parties determine the contract is about. For example in a BBC online magazine article from 2005 the author explained that:

Recently there has been a growth in "sell-and-buy-back" stores, where the borrower sells the item with an option to buy it back after 28 days at a higher price. It is not interest but a charge, which can be as high as 30% of the sale price. If the borrower does not buy the property back, it is sold in the shop. Birmingham is home to the biggest buy-back store in Europe, Cash Converters, which has half a million customers a week. One man sold his mobile phone on a Wednesday for £10 and bought it back two days later for £17. A high price, but few of the borrowers have complaints and many say it is a useful service. "I need some cash to last me until the end of the month," says Kevin, as he tried to sell his amplifier and speakers. "I can't get cash anywhere else, but I know I can sell my personal goods to get money." <http://news.bbc.co.uk/1/hi/magazine/4369565.stm>

cashconverters

SHOP ONLINE WE BUY WE LOAN ABOUT US JOIN US FRANCHISE STORE LOCATOR CONTACT US

BUY BACKS

CONVERT YOUR THINKING

If you need some cash for a short time, why not try our Buy Back scheme? This straightforward, handy service can provide you with cash, while giving you the option to buy your goods back later, option fee applies.

HERE'S HOW IT WORKS:

- You bring your items into one of our stores.
- We'll discuss your needs with you.
- We'll test your Buy Back items, give you cash for them, place them in secure storage, and guarantee you the right to buy back the items from us within 28 days.
- Within the next 28 days you can return to buy back your goods for the price we paid you for them, plus an option fee for the service.
- You can even extend the agreement by a further 28 days with our one-off renewal option. This involves paying the fee at the time of repurchase and at the time of renewal. Unfortunately no further extensions of the Buybacks agreement can be offered.

HERE'S WHAT YOU NEED:

- You must be over 18 years of age.
- You will need to bring a minimum of three recent documents of identification, including at least one signature and another with proof of address, e.g. driving licence, passport or similar. We will need to check these before we can give you any cash for your item. Please [click here](#) for a list of acceptable ID documents.

STORE LOCATOR
Enter your postcode to find your local Cash Converters store

Enter your postcode **SEARCH**

FRANCHISE OPPORTUNITIES
Learn more about franchise opportunities with Cash Converters

FIND OUT MORE

WE BUY GOLD
Simply bring the gold item(s) into one of our

In this BBC article and from both cash generator's and cash converters website advertising it is evident that the more accurate objective of the Buy-back facility is to provide the 'borrower' with short-term cash and the 'lender' is prepared to hand over that cash in return for holding in his possession the 'pledged' item. Giving something a new name doesn't change its true legal status and in the credit industry it is fashionable to re-brand financial products to give them a more modern sound. For example "PCP- Personal Contract Purchase" is just a modern twist on hire purchase. Where instead of the final optional price to buy the goods being a nominal sum, perhaps equivalent to a monthly payment, with PCP the consumer must pay a balloon payment. The balloon payment may be several thousand pounds and equate approximately to the current residual market value of the car. This facility lowers the monthly payment for the consumer – but at the end of the day this contract is still legally defined as hire purchase. Pawnbroking may have a rather outdated image and the rules surrounding the credit facility maybe considered burdensome but nevertheless calling something buy-back when its true legal status is providing a loan or at least a form of financial accommodation to the effective 'borrower' in return for the taking short-term possession of some article is considered potentially unlawful.

The Buy-Back Contract

The provider of buy-back facilities will likely classify the buy-back contract as a true sale (transfer of ownership) with the seller having the right of redemption or the right of first refusal to retake ownership in the goods when the 28 day time limit expires. In law possession is to be distinguished from ownership. The Latin term '*Nihil commune habet proprietas cum possessione*' is relevant here, it means '*Ownership and possession have nothing in common with each other*'. Thus you have non-possessing owners and non-owning possessors. Possessory security is security over corporeal property in which the security is based on the possession of the creditor. Pledge and lien are the possessory securities in Scots law, the difference between them being that pledge is voluntary and lien is implied by operation of law. In pawnbroking the pledger (debtor) continues to hold the real right of ownership, and the pledgee (pawnbroker) acquires a limited real right in the pledged property. Security created in this way – where the creditor acquires a subordinate right, the title remaining with the debtor – is sometimes called a proper security. In a proper security, when the debt is paid off the debtor does not need to acquire the title because the debtor already has the title. The creditor's right is a mere encumbrance on the debtor's title. If the debt was an exact sum, which has been settled, the security is automatically extinguished.

If the goods subject to a buy-back contract have truly transferred ownership then the seller is therefore liable to the previous owner (when or if he re-takes ownership) for matters relating to product quality under the Sale of Goods Act 1979, products safety, product liability and other consumer protection issues relating to the true supply of second-hand goods. If the finance business in any way attempts to restrict the rights of the original owner when re-taking ownership then they may be committing an offence under the Consumer Protection from Unfair Trading Regulations 2008.

Section 62(4) of the Sale of Goods Act 1979 states: "*The provisions of this Act about contracts of sale do not apply to a transaction in the form of a contract of sale which is intended to operate by way of mortgage, pledge, charge, or other security.*"

"In Scots law, where the Bills of Sale Acts do not apply, the interpretation of s. 62(4) has caused some difficulties against the background of the general principle that the creation of a security in moveables requires that the creditor be in possession of the security subjects. Thus the 'buyer' in the transaction has no security. The disapplication of the Sale of Goods Act also means that the pre-1893 rules on transfer of property apply, with the effect that the 'buyer' in the transaction cannot be the owner of the goods unless there has been delivery. As in England, the Scottish courts have emphasised the need to investigate the substance of the transaction and the true

intention of the parties. If the evidence shows that the aim of the transaction was to raise finance by means of a security, then there is no sale.” Quote: Atiyah's Sale of Goods Ed XII Chapter 2

Online rates for traditional pawnbroking start in the region of 3.5% per month for six months which equates to an APR of around 46%APR. At a 28 day rate of 30% the APR for a transaction involving the re-purchase of a £200 item for £260 would be **2957% APR**, with a 391% annual borrowing rate equivalent. This compares to a typical payday loan with an APR of 1734% on £100 borrowed at a rate of 25% per month with a nominal annual rate of 326%.

Detriment

There are three main issues:

1. Denying the consumer the statutory protections provided for in the CCA74 such as six month redemption period and the right to a statutory agreement & receipt.
2. Effectively enticing the consumer into an ultra-high interest secured loan without the statutory protections applicable to pawnbroking and other lending. This includes the notification of an applicable APR to allow comparison with other short term loans.
3. No credit-worthiness checks

Outcomes for denying this form of credit to vulnerable parties, e.g. Loss of rights

How it's marketed plus the unusualness of the 'contract' leads us to conclude it's a pledge and therefore pawnbroking.

Conclusion & Recommendations

The Office of Fair Trading monopolies and mergers branch made the following statement in relation to a takeover bid [report](#) for a pawnbroking firm (2007).

“Sale and buy-back services - the six months redemption period provided for in UK pawnbroking law can be problematic in the case of pawns that comprise items (such as electronic equipment) which are prone to obsolescence and consequent loss in value in relatively short periods of time. Sale and buy-back is an alternative to traditional pawnbroking in that it allows for a consumer to sell the item to the business on terms that give that consumer the option to buy the item back within a short period of time (typically one month) at a price usually around 20 per cent higher than that received from the sale to the business. Sale and buy-back services are not regulated by the Consumer Credit Act. It should be noted that although their commercial activities compete with this segment, neither of the parties is active within it.”

Pawnbroking has evidently moved away from pawning mundane items such as a pair of shoes to focus on higher value items such as precious metals and jewellery. Consequently Buy-back has been created to provide short-term secured loans for relatively low value goods. Despite the OFT mergers branch statement to the contrary it is concluded that Buy-back is in effect and operates as secured credit. The amounts borrowed are regulated under the Consumer Credit 1974 and because the lender takes an article as collateral/security (pledge) for the loan, the lender is under a duty to give the borrower a “pawn-receipt”. Failure to give a pawn-receipt in the prescribed form is a criminal offence. The lender is also under an obligation to give the borrower copies of a pledge agreement between the parties. Failure to do so is a criminal offence. The minimum redemption period for a pawn agreement is six months.

