

The Highland Council
Resources Committee – 24 August 2016

Agenda Item	21
Report No	RES/59/16

Trading Standards 2016-17 Plan

Report by Depute Chief Executive/Director of Corporate Development

Summary

This report sets out the factors that have been taken into account in setting the priorities for Trading Standards in the year ahead and places the Trading Standards Plan for 2016/17 before Members for noting.

The plan takes full account of the reduction in resources of the Trading Standards team following Voluntary Redundancy departures and of the integration of Trading Standards into the Corporate Development Service.

1. Background

- 1.1 The purpose of the Trading Standards team is to fulfil the Council's statutory duties under a wide range of trading regulation covering areas such as Fair Trading, Consumer Safety, Weights and Measures and Licensing. These laws help ensure the maintenance of a fair and safe trading environment in the Highlands, protecting both consumers and reputable businesses. The full list of legislation can be found in Annex D to the Trading Standards Enforcement Policy.¹
- 1.2 Each year, the planned work of the Trading Standards team is listed in a Plan which is reported to Members. The Plan for 2016-17 is attached to this report as Appendix 1. This work programme is in line with priorities set by the Highland Council, the Scottish Government and national consumer protection bodies. These priorities are referenced throughout the plan. The plan does not include various support activities undertaken by the team, e.g. management and development of intelligence; ongoing partnerships and liaison; internal staff training and mentoring.
- 1.3 At the end of April 2016, the Trading Standards team was reduced from 18.8 FTE staff to 13, with one of the remaining officers on maternity leave until 2017. The 2016-17 Plan has taken account of these resource changes. At the same time, the team has been relocated from the Development and Infrastructure Service to the Corporate Development Service, under the Head of Corporate Governance.

¹ http://www.highland.gov.uk/downloads/file/11630/enforcement_policy

1.4 The reduction in staff has had a number of impacts on the plan. In several subject areas, planned work has been reduced from previous years, for example fewer routine inspection visits will be carried out. Two of the main operational changes that have been necessary to implement are:

- **Ceasing to carry out the non-statutory functions of Consumer Advice and “Standalone Conciliation”.** The primary responsibility for the provision of consumer advice has long been with bodies other than the Council. For a number of years it lay with the UK Government’s Office of Fair Trading (OFT) through its national telephone helpline “Consumer Direct”. It has since been transferred to the Citizens Advice Consumer Service², a national telephone helpline and online resource. Up until the end of April, Highland Trading Standards provided advice to consumers looking for face-to-face help and this has been discontinued. “Conciliation” involves Trading Standards officers mediating in individual disputes between consumers and businesses. Previously this was carried out for any consumer who had tried and failed to resolve a dispute; now it is only done by Trading Standards when the activity is part of a wider investigation into the business involved and therefore part of a statutory function.
- **A refocusing of taxi enforcement work** to concentrate on core statutory matters such as vehicle safety and taxi meter accuracy. This means a reduced focus on appearance and utility standards and a move away from what was effectively a “drop-in” service for taxi drivers. Now, drivers must make an appointment to see an officer, which is in line with the services offered to other business types.

1.5 Steps have been taken to ameliorate possible negative consequences of the changes to service. For example, Trading Standards officers work closely with Citizens Advice colleagues in the “Highland Consumer Partnership”³ with the eight Highland Citizens Advice Bureaux, enabling Highland consumers to receive the advice and assistance they need. Additionally, new links have been forged with “Alternative Dispute Resolution” providers (“ADRs”) such as The Consumer Ombudsman and the Financial Ombudsman Service. These will be developed further in the months ahead.

2. Priorities for 2016/17

2.1 The Single Outcome Agreement and the Council’s Programme for the Highlands do not specifically deal with Trading Standards issues. However, the work of Trading Standards contributes towards a number of these documents’ high level objectives and desired outcomes, and these are referenced in the Plan. Further guidance on prioritisation comes from the “Consumer Protection Partnership” (“CPP”)⁴ - a body which brings together a

² See: <https://www.citizensadvice.org.uk/scotland/consumer/get-more-help/if-you-need-more-help-about-a-consumer-issue/>

³ For information on the Highland Consumer Partnership see: <http://www.highlandconsumerpartnership.org.uk/>

⁴ The CPP “identifies and prioritises areas where there is greatest harm caused to consumers and coordinates action by its members”. See its 2016 report at: <https://www.gov.uk/government/publications/consumer-protection-partnership-update-report-2016-to-2018>

wide range of consumer protection organisations from across the UK to determine “areas of concern” in the consumer marketplace – and the COSLA Trading Standards Scotland national team priorities. The main priorities from all these sources are listed below.

- 2.2 The Highland Council “Single Outcome Agreement” (SOA3):
 - Economic Recovery and Growth
 - Safer and stronger communities and reducing re-offending
 - Outcomes for older people
 - Health inequalities

- 2.3 “Highland First”, Programme of The Highland Council 2015-17:
 - Building the Local Economy
 - Safe, Strong and Empowered Communities
 - A Fairer Highland
 - Working together for our children and young people

- 2.4 CPP “Areas of Concern” 2016:
 - Scam Calls – people are being tricked through a variety of fraudulent schemes.
 - Digital Markets – continued rapid expansion of the internet and increased engagement between consumer and businesses online raises risks.

- 2.5 COSLA National Team Priorities 2016-19
 - Doorstep Crime
 - Illicit trade (including anti-counterfeiting)
 - Scams (including by post, email, online and telephone)

3. Local Trading Standards Priorities

- 3.1 In addition to the high-level goals and nationally-established priorities, it is also essential to identify particular local priorities, based on the experiences of the Trading Standards team in Highland. These local priorities - which feed into the high-level goals in SOA3 and Highland First - have not been specifically identified by other priority-setting sources but are of central importance to consumers and businesses in the Highlands. They are determined by the following considerations:
 - Numbers and types of complaints received from Highland consumers about the topic
 - Numbers and types of requests for assistance from businesses
 - Potential for significant consumer detriment
 - Importance to the economy of the Highlands due to rurality or other local issues.

- 3.2 The local priorities identified for 2016-17 are:
 - Internet delivery surcharges and other delivery problems
 - Tourist accommodation and services
 - Rural petrol filling stations

- Private rented housing sector
- Consumer rights at retail level
- Car parking on private land

4. Implications

- 4.1 There are no direct Resource, Legal, Equalities, Climate Change/Carbon Clever, Risk, Gaelic or Rural implications.

Recommendation

Members asked to note the changes to the Trading Standards team and the contents of the Plan for 2016-17.

Designation: Depute Chief Executive/Director of Corporate Development

Date: 10 August 2016

Author: David MacKenzie, Trading Standards Manager

Appendix 1

The Highland Council Trading Standards Team

Plan 2016-17

1. Statutory Duties

The Council has a wide range of Trading Standards statutory duties from EU, UK and Scottish sources. The full list of this legislation is contained in Annex D to the Council's Trading Standards Enforcement Policy.⁵ The main subject areas are:

- Fair Trading (including false advertising, unfair commercial practices and consumer buying rights)
- Intellectual Property (Counterfeiting and Trademarks infringements)
- Doorstep Crime
- Weights & Measures
- Product Safety
- Licensing Functions (including Petroleum, Explosives and Taxis)
- Tobacco Marketing Controls
- Agriculture (Animal Feed & Fertiliser Quality Standards)

2. Priorities

The priorities of this Plan are guided by a range of authoritative goal-setting sources, in particular:

1. SOA3, The Highland Council's Single Outcome Agreement
2. "Highland First" - Programme of The Highland Council 2015-17
3. Consumer Protection Partnership "Areas of Concern" 2016
4. COSLA Trading Standards Scotland National Team Priorities 2016-19

These sources are supplemented by an assessment of intelligence and service requests received by The Highland Council Trading Standards team which provides additional specific local priorities. All work activities included in the plan are cross-referenced with priorities.

3. Regulators' Codes

The contents of this plan and all work carried out under it must be in accordance with the requirements of the UK Regulators' Code⁶ and the Scottish Regulators' Strategic Code of Practice.⁷ These are governed by the "five principles of Better Regulation" – i.e. all work is: Proportionate, Consistent, Accountable, Transparent and Targeted.

4. Details

The specific initiatives and work activities are listed in the following table under 11 headings.

⁵ http://www.highland.gov.uk/downloads/file/11630/enforcement_policy

⁶ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300126/14-705-regulators-code.pdf

⁷ <http://www.gov.scot/Resource/0046/00467429.pdf>

Section	Heading	Detail
1	Fair Trading	<p>(Statutory Function; SOA3 - Economic Recovery and Growth; SOA3/THC Programme- Working together for strong and safe communities and A Fairer Highland; CPP Area of Concern - Scam Calls; COSLA Priorities - Illicit trade and Scams; Local Priorities – Tourism, Private car parking, consumer rights)</p> <p>To monitor fair trading law compliance levels, by targeting available resources on selected areas of business for which available intelligence indicates that problems exist and by the provision of advice and enforcement action where necessary to achieve compliance.</p> <p>The largest portion of this work involves investigating cases originating from consumer complaints and other sources of intelligence. All intelligence will be considered, and a rigorous “tasking” framework established to identify which cases are investigated and how all pieces of work are handled. Cases will be progressed to an appropriate conclusion, including both formal disposals (e.g. prosecution or Enterprise Act Court Order) and informal disposals (e.g. written warning or advice to trader).</p> <p>In addition to the “reactive” work described above, there will be a series of “proactive” planned initiatives. These are:</p> <ul style="list-style-type: none"> • Private Car Parking Compliance: this is a Society of Chief Officers of Trading Standards in Scotland (SCOTSS) Project to be implemented across Scotland. A substantial increase in complaints about this subject – both in Highland and throughout Scotland – has made this a priority issue. Reported problems include poor signage, harassment of blue badge holders, unfair debt collection and misleading claims. Car parks operators will be checked on a systematic basis. • Unfair Claims in Wedding Contracts: this is a SCOTSS Project to be implemented across Scotland. Identified by the Competition and Markets Authority as a consumer rights problem area, this project seeks to ensure that wedding venues do not take advantage of wedding clients with unfair terms such as very high non-refundable deposits. • Implementation of the new Pricing Practices Guide: this is a SCOTSS Project to be implemented across Scotland. The new Guide provides updated information on the presentation of prices in

		<p>shops. A small sample of Highland-based outlets will be checked for compliance.</p> <ul style="list-style-type: none"> • Further develop the “Highland Consumer Partnership” (HCP) with local CABs and Citizens Advice Scotland, bringing in other partner agencies (e.g. the Consumer Ombudsman and Financial Ombudsman Service) to ensure Highland consumers receive a “joined-up” service across the consumer landscape. • Tackle scam calls to Highland residents through a range of preventative work, including participation in “Scams Awareness Month”. • Private Rented Housing Sector: this is a local Highland initiative. Intelligence suggests this is an area causing consumer detriment, requiring extra attention from Trading Standards. A closer working partnership will be established with Landlord Registration, plus engagement with landlords on consumer law obligations. • Develop the use of “Enhanced Consumer Measures” (ECMs) under Enterprise Act: this is a SCOTSS initiative being led by Highland. Highland Trading Standards has made good use of the civil enforcement provisions in the Enterprise Act and now seeks to use the recently-enacted ECMs to promote consumer redress in appropriate cases. Working with Legal Services, standard procedures and paperwork will be developed. • Monitor the supply of on-street second hand motor vehicles being offered for sale. Take action against unlicensed dealers under licensing and general fair trading laws. This is a local initiative reacting to the ongoing receipt of intelligence about these matters.
2	e-Crime/ e-Commerce	<p>(Statutory Function; SOA3 - Economic Recovery and Growth; SOA3/THC Programme- Working together for strong and safe communities; CPP Area of Concern – Digital Markets; Local Priorities – Internet delivery and Tourism)</p> <p>To improve the service’s capacity to investigate and regulate online commercial activity and to improve the compliance levels of online business based or doing business in Highland. 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>Some of this work is integrated into the activities in Section 1 “Fair Trading”. In addition there are three specific local initiatives for 2016-17:</p>

		<ul style="list-style-type: none"> • 3rd Party Websites in the Tourism Industry: tourism is Highland's biggest industry and Trading Standards has regular positive interaction with local traders, many of whom are small micro-businesses. The last year has seen a significant increase in intelligence about the influence of large 3rd Party websites. This project seeks to protect local businesses through a rigorous examination of the role of 3rd party sites in the sector. • Internet Delivery Charges: although significant improvements have been achieved on this topic, problems persist and complaints regularly received. Problems include high surcharges, late declaration of surcharges, false claims (e.g. Free Mainland delivery) and refusals to deliver. Previous enforcement and publicity work will be built upon, with further engagement directly with businesses and with a range of partner organisations. • Build on the significant progress made to date on internal e-crime investigative capacity, through investment in in-house capability and in the development of effective partnerships with other regulatory bodies and technical centres of excellence.
3	Business Advice and Protection	<p>(Statutory Function; SOA3 - Economic Recovery and Growth; THC Programme: various issues relating to economic development and helping local SMEs)</p> <p>To help Highland businesses comply with consumer laws through advice and guidance and promote a culture of “economic success through best practice”.</p> <p>To provide advice to Highland businesses who are the victims of unfair trading in their purchases.</p> <p>There are three ongoing strands to this work:</p> <ul style="list-style-type: none"> • Providing “enforcement by advice” through both reactive and proactive action, ensuring compliance in a measured and proportionate way. This mainly involves responding to specific queries from businesses about how they can comply with consumer laws. It also involves providing general guidance, e-newsletters and seminars where appropriate. • Investigating breaches of the Business Protection from Misleading Marketing Regulations 2008 and taking appropriate action. • Providing “1st Line” advice to local SMEs who make a complaint about purchases they have made from other traders.

		<p>One specific initiative for 2016-17 is the production of a guidance booklet for the used car trade. This is a SCOTSS initiative being led by Highland. Used cars continue to be the most-complained-about consumer product and Highland has long taken a preventative approach through engagement with the trade to improve compliance. Due to recent changes in consumer buying rights, the previous Office of Fair Trading booklet is now out-of-date but will be used as a base for the new guidance.</p>
4	Product Safety	<p>(Statutory Function; SOA3/THC Programme - Working together for strong and safe communities)</p> <p>To increase product safety standards locally by undertaking effective market surveillance and responding where necessary to ensure the removal of dangerous products from the market.</p> <p>Including:</p> <ul style="list-style-type: none"> • Considering all consumer complaints and other intelligence relating to product safety and taking any action that is necessary to ensure the safety of Highland consumers. • Providing advice and guidance to Highland businesses on all product safety compliance matters. • Participating in SCOTSS Product Safety Group projects and other joint initiatives, to be considered on a case-by-case basis in terms of their relevance to the Highlands.
5	Tobacco	<p>(Statutory Function; SOA3/THC Programme - Working together for strong and safe communities & Working together for our children and young people; SOA3 – Health inequalities)</p> <p>To reduce the incidence of age restricted products getting into the hands of young people. To promote public health in the Highlands through ensuring compliance with Tobacco-specific legislation.</p> <p>Including:</p> <ul style="list-style-type: none"> • Responding to intelligence received about underage sales by carrying out investigations and taking enforcement action where necessary. • Providing advice and guidance to Highland businesses on age restricted sales compliance matters. • Responding to intelligence received about Tobacco law infringements by investigating and taking

		<p>appropriate action.</p> <ul style="list-style-type: none"> • Provide advice and guidance to Highland businesses on Tobacco law matters. • Continuing to monitor the developing situation with regard to e-Cigarettes: not currently covered by age restricted sales law or Tobacco law but under close consideration by the Scottish Government. If new legislation is introduced, a Highland response will be formulated.
6	Doorstep Crime	<p>(Statutory Function; SOA3/THC Programme - Working together for strong and safe communities and Outcomes for older people; COSLA Priority – Doorstep Crime)</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>Doorstep Crime refers to the activities of rogue traders offering home improvement services. Although any householder could be scammed, these activities are often targeted at elderly and vulnerable people. The potential for consumer detriment is very high. The response of Trading Standards on this subject involves close partnership working with Police Scotland and adult protection services and includes:</p> <ul style="list-style-type: none"> • Reacting to complaints and intelligence received and taking appropriate action. • Engaging in in multi-agency operations to detect itinerant trading activity. • Providing an analysis of doorstep selling activity within Highland • Working with colleagues across Scotland to produce effective standard operating procedures for doorstep crime work.
7	Petroleum	<p>(Statutory Function; THC Programme – Strong, safe and empowered communities and various issues relating to economic development and helping local SMEs)</p> <p>To 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"> • Liaising with developers, site owners and others including Highland Council Services to ensure safety requirements are being achieved. • Responding to complaints and intelligence received. • Working with site owners, developers and others to decommission sites, enforcing full decommissioning where necessary.
8	Weights & Measures	<p>(Statutory Function; THC Programme: A Fairer Highland and various issues relating to economic development and helping local SMEs)</p> <p>To monitor the equipment in use for trade in the Highlands and to provide an efficient high quality calibration and weighing & measuring equipment requalification service to business.</p> <p>Including:</p> <ul style="list-style-type: none"> • Maintaining metrological equipment in accordance with national standards. • Responding to complaints and intelligence received. • Responding to requests for service from Highland businesses. • Developing joint “Notified Body” with other northern local authorities
9	Taxis & Private Hire cars (PHCs)	<p>(THC Programme – Strong, safe and empowered communities and various issues relating to economic development and helping local SMEs)</p> <p>To 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>Including:</p> <ul style="list-style-type: none"> • Monitoring licensee performance via Penalty Points system • Responding to complaints and intelligence received. • Responding to requests for Taxi meter testing.

10	Animal Feedstuffs	<p>(Statutory Function; THC Programme – Strong, safe and empowered communities)</p> <p>To ensure compliance with feed hygiene and quality standards by the targeted surveillance of producers and feed businesses, and where necessary taking product samples for analysis.</p> <p>Including:</p> <ul style="list-style-type: none"> • Creating and completing an annual inspection and sampling plan for Official Feed Controls • Completing annual Food Standards Scotland (FSS) Official Feed return. • Responding to FSS feed incidents.
11	Explosives	<p>(Statutory Function; THC Programme – Strong, safe and empowered communities)</p> <p>To protect the Highland public by ensuring that explosives materials are safely stored and not supplied to underage buyers.</p> <p>Including:</p> <ul style="list-style-type: none"> • Monitoring explosives and fireworks licences and registrations. • Responding to complaints and intelligence received.