

TYNE AND WEAR TRADING STANDARDS JOINT COMMITTEE AGENDA

Thursday, 17 September 2020 at 10.00 am
Virtual Via Teams - Link to view to follow shortly

From the Chief Executive, Sheena Ramsey

Item	Business
1	Apologies for Absence
2	Minutes (Pages 3 - 8) The Joint Committee is asked to approve as a correct record the minutes of the previous meeting.
3	Final Outturn for Financial Year 2019/20 (Pages 9 - 12) Report of the Service Director, Planning Policy, Climate Change & Strategic Transport
4	Report and Statistical Return for the Quarter Ending September 2020 (Pages 13 - 14) Report of the Strategic Director, Communities and Environment, Gateshead Council
5	Competition and Markets Authority: The Coronavirus (COVID-19) Pandemic, Consumer Contracts, Cancellation and Refunds (Pages 15 - 18) Report of the Service Director, Development, Transport and Public Protection
6	Competition and Markets Authority: Joint Statement Against Price Gouging - July 2020 (Pages 19 - 22) Report of the Service Director, Development, Transport and Public Protection
7	Personal Protective Equipment: Face Masks and Coverings (Pages 23 - 26) Report of Service Director, Development, Transport and Public Protection.

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GATESHEAD METROPOLITAN BOROUGH COUNCIL

TYNE AND WEAR TRADING STANDARDS JOINT COMMITTEE MEETING

Thursday, 13 February 2020

PRESENT: Councillor K Dodds (Chair)

Councillor(s): Councillor J Fletcher, T Graham, I Patterson,
Councillor S Graham, S Dean, Councillor J Blackburn and
Councillor Nick Kemp

TW22 APOLOGIES FOR ABSENCE

Apologies were received from:

Councillor M Foy – Gateshead Council
Councillor T Dixon – South Tyneside Council
Councillor P Lovatt – Newcastle City Council
Councillor M Lowson – Newcastle City Council
Councillor L Wright – Newcastle City Council
Councillor A Wilson – Sunderland City Council
Councillor D Waller – Sunderland City Council

TW23 MINUTES

The minutes of the meeting held on Thursday 7 November were agreed as a correct record.

TW24 REPORT AND STATISTICAL RETURN FOR THE PERIOD ENDING JANUARY 2020

The Committee received an update report on the work of the Metrology Laboratory for the period ending January 2020.

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

TW25 REVENUE ESTIMATES 2020/21

The Committee received the budget estimates for 2020/21. It has been assumed that the current increased income levels will be maintained. The Committee were advised that there was a small surplus projected which will be added to the current reserves.

It was noted that the contributions from the constituent authorities will remain the same as previous years.

It was queried how the formula was calculated for the constituent authority contributions and when the contribution figures were last updated. It was noted that the contributions were calculated by head of population. The Committee were advised that the timing of when the calculations were last looked at would be checked by officers and the information circulated to the Committee.

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

TW26 LOCAL AUTHORITY UPDATE 2020

The committee received a report provide an update on work carried out by the Trading Standards services over the five authorities over the last year.

Gateshead Council have been successful in obtaining an Enforcement Order under the Enterprise Act 2002 in respect of a rogue business and are also undertaking work on a continuing basis around illegal tobacco products.

Newcastle City Council has also been continuing its work in support of the local tobacco alliance Smoke Free Newcastle and the regional tobacco office Fresh campaign "Keep it Out" to deliver on various enforcement targets. The authority have also been invited to take part in a pilot project for the Department for Business, Energy and Industrial Strategy around the enforcement of the legislation which impacts on the energy rating of both domestic and non-domestic premises and the provision of Energy Performance Certificates.

North Tyneside have been involved in Knife Test Purchase operations and investigating complaints around scam health supplements.

South Tyneside have been continuing with their commitment to No Cold Calling Zones and also have recently registered with the National Trading Standards Scams Team as a 'Friends Against Scams Organisation'. They have also been involved in fireworks related activity in line with all of the other authorities in advance of Bonfire Night.

Sunderland City have recently launched the Responsible Retailer Scheme and have found several premises across the city which have been selling counterfeit wine. They have also undertaken a programme of test purchases around age-restricted products.

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

TW27 HOUSE OF COMMONS PETITIONS COMMITTEE - FIREWORKS OCTOBER 2019

The Committee received a report to provide an update on the publication by the House of Commons Petitions Committee.

The Committee were advised that fireworks have been a popular topic for e-petitions during the previous Parliament. Individuals and campaign groups used the e-petitions system to express a wide range of concerns, including noise from fireworks having serious detrimental effects on people and animals; misuse of fireworks and anti-social behaviour blighting local communities and environmental issues.

The Petitions Committee scheduled three debates in Parliament on petitions relating to fireworks that had each gained more than 100,000 signatures. In total, petitions calling for tighter restrictions on the sale and use of fireworks by the general public have attracted around 750,000 signatures in three years. Whilst the Government's responses to these petitions, and Ministers' replies to the debates, left petitioners feeling frustrated and ignored. The Committee undertook the inquiry to hear their concerns and propose changes in response to them.

The Committee looked closely at the proposal to ban sales and use of fireworks by the public but were not persuaded to recommend this drastic course of action at that time. There are valid concerns backed up by evidence from overseas that a ban could have unintended consequences. A ban would have a substantial economic effect, which would be most keenly felt by people who have built their livelihood on the fireworks industry. A ban would likely have dire consequences for competently run, voluntary, community displays, which use fireworks to raise funds for local good causes. In many cases these community displays have widespread local support and increase community cohesion.

However, the enquiry found clear evidence that petitions calling for greater restrictions on sales and use of fireworks have been motivated by justified concerns. In many cases, there are substantial adverse effects, for example on people with a very wide range of health conditions and disabilities. There can be very distressing effects on people with Post-traumatic Stress Disorder, including military veterans. Animals can suffer serious and long-term effects. The Committee took the view "that it is not good enough for the Government to repeatedly claim that the law protects these people and animals from harm. It does not. We now expect action, rather than continued apathy".

The Committee took the view that it is imperative that consumer fireworks are only sold to the public through legitimate retailers with the appropriate licences and by staff with the appropriate level of training to advise customers about safe and responsible use. Government is encouraged to act quickly to close a potential loophole in the regulations around storage by retailers of up to 5kg of fireworks, particularly over social media, with a view to establishing a national, cross-agency strategy to tackle illegal online sales before October 2020.

The Committee concluded that "Government has so far failed to act in response to legitimate concerns about fireworks expressed through the e-petitions system. People rightly expect the Government to listen to them, take their concerns seriously, and act. The Government's response to this Report is its chance to finally do that".

It was suggested that this Committee write to Catherine McKinnell to highlight the concerns of the Tyne and Wear authorities.

- RESOLVED - (i) That the information contained within the report be noted.
(ii) That a letter be sent on behalf of this committee from the Chair to Catherine McKinnell outlining the concerns of the Committee on this issue.

TW28 KEEP IT OUT CAMPAIGN 2020 AND ILLEGAL TOBACCO ENFORCEMENT WORK

The Committee received a report to provide an update on the recent launch of the Keep It Out Campaign and illegal tobacco enforcement activity undertaken by Trading Standards services in Tyne and Wear.

‘Keep It Out’ is a campaign that has ran for several years as a tool designed to target illegal tobacco supplies. It is developed and led by Fresh, an organisation based in County Durham whose remit is to deliver a variety of workstreams that seek to combat the high smoking related illness and death rate that is prevalent throughout the North East. All five Tyne and Wear authorities fund and support this work.

The latest wave of ‘Keep it Out’ was launched across the region on 20 January and is set to be the biggest yet. A widespread publicity campaign is currently being delivered, in conjunction with Trading Standards and other Council/public services that are engaged in local smoke-free partnerships.

The 2020 campaign is predominantly centred around the impact that illegal tobacco availability has on young people, the main headlines being:

- Illegal tobacco helps children to get hooked on smoking and thus continues the cycle of health-related issues currently seen.
- Children find out through their peer groups who is selling it in their locality and that it’s sold at prices they can afford. The regulatory controls in place for legitimate tobacco are rendered ineffective.
- Illegal sellers are unconcerned about who their market is. People wrongly believe that local sellers won’t sell to children. The facts are that they often do.
- The illegal tobacco trade is linked to criminals. Local suppliers are often involved in drugs and loan sharking. Buying it means supporting crime and can put the children in contact with criminals.

Promotional materials for ‘Keep It out’ take the form of drink mats, posters, retailer guides, public facing leaflets and a wallet guide for frontline professionals. Two versions of a radio advert will be heard for four week on three local stations – Hits North East (formerly Metro), Sun FM and Smooth. In all instances, a key concept is to educate and raise awareness of the negative effect this trade has on children.

All publicity material features the contact details for how the general public can anonymously report illegal tobacco sources. Information received through the campaign is collated by Fresh and an intelligence package is distributed to the

relevant Trading Standards Services for action.

The success of 'Keep It Out' relies heavily upon the cooperation of all partners engaged in smoke-free alliances for the distribution of publicity materials. As Trading Standards have a critical role in enforcement of illegal tobacco sales, an active role must be taken with promotion of the campaign to enable intelligence led working.

Leaflets and posters have been delivered to retail premises, community centres, GP surgeries and Council buildings. Drink mats have also been given to licenced pubs and clubs across the area. In some areas, Keep It Out posters are displayed in transport interchange stations, including Metro Stations in Gateshead and Sunderland.

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

TW29

WHICH? POLICY PAPER: ONLINE MARKETPLACES AND PRODUCT SAFETY, NOVEMBER 2019

The Committee received a report updating on a publication by Which? 'Online Marketplaces and Product Safety' in November 2019.

Research and testing by Which? regularly find large numbers of unsafe consumer products being sold via sellers on online marketplaces, ranging from smoke alarms to child car seats. Online marketplaces have become a common way for millions of shoppers to buy online from an expanding pool of global sellers: 9 in 10 (91%) of people have bought consumer goods this way. Consumers value the lower prices and wide choice that these marketplaces can offer, but it is the view taken by Which? that consumer protections have failed to keep pace and fall short of more traditional retailers.

Many people assume that online marketplaces are responsible for making sure that the products sold on their platforms are safe, removing unsafe products from sale and notifying customers when something goes wrong. But this is not the case – legally it is the sellers that consumers largely have to rely on to assure safety.

The survey carried out by Which? of online marketplace shoppers in September 2019, found that only 21% were aware that online marketplaces have no legal responsibility for overseeing product safety on their sites. Online marketplaces, which include Amazon Marketplace, Facebook, ebay and wish.com for example, are exempt from liability unless they are aware of illegal content. This leave consumer vulnerable, particularly when many of the sellers and product originate outside the UK. 70% of marketplace users think the law needs changing so that marketplaces are legally responsible.

Which? Takes the view that regulation is required to strengthen the legal responsibilities of online marketplaces and ensure that public authorities have adequate powers, tools and resources to require action from marketplaces when consumers are put at risk. The organisation also takes the view that the

voluntary nature of current checks by marketplaces fails to recognise their role as the primary interface for consumers with the technical, as well as commercial, ability to hold their suppliers to account for consumer safety.

Which? Takes the view that clearer government guidance is needed while this legislation is being drafted and implemented, in line with the Codes of Practice envisaged in the Online Harms White Paper.

Which? have identified the following actions which if feels are needed.

- Online marketplaces should be required to ensure that consumer products offered for sale by sellers on their sites are safe.
- The actions that are required by online marketplaces when unsafe products are identified should be clarified.
- Enforcement officers should be equipped with appropriate powers, resources, investigatory skills and intelligence to police online marketplaces and platforms and the supply networks that underpin them.
- There should be great transparency obligations so that consumers are clear who they are buying from.

UK Law should place a requirement on online marketplace to make it clear to people whether they are buying from a trader, rather than another consumer, and implement recently adopted EU law that requires this after EU exit.

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

Chair.....



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

17th September 2020

Final Outturn for Financial Year 2019/20

**Anneliese Hutchinson, Service Director, Planning Policy, Climate Change &
Strategic Transport, Gateshead Council**

Purpose of the report

1. To advise the Joint Committee of the final Outturn for 2019/20, subject to the audit of Gateshead Council's accounts.
2. Details of the final position are shown in Appendix 1

Recommendation

3. The Committee is asked to note the information.

Contact: Jeremy Craxford, Gateshead Council on 0191 433 2727

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Appendix 1					
		Budget 19/20 £	Outturn 19/20 £	Variance £	Notes
INCOME					
Fees & Charges		-120,337	-160,033	-39,696	
S.11 Stamping Fees		-9,000	-1,966	7,034	
Levy on Constituent Authorities		-218,869	-218,869	0	See Analysis Below
		-348,206	-380,868	-32,662	
EMPLOYEES					
Direct Pay		222,824	236,418	13,594	1 x Grade L Manager 3 x Grade H Technical Officers
Indirect Pay		1,142	425	-717	1 x Grade D Technical Assistant
		223,966	236,843	12,877	0.73 Grade B/C Clerical Assistant
PREMISES					
Repairs & Maintenance		7,670	21,237	13,567	Roof Repairs £7k, Windows £4k
Utilities		14,293	13,972	-321	
Rent		4,160	4,160	0	
Rates		8,400	8,470	70	
		34,523	47,838	13,315	
TRANSPORT					
Car Allowances		400	0	-400	
Vehicle Running Costs		940	1,256	316	
		1,340	1,256	-84	
SUPPLIES & SERVICES					
Furniture & Materials		7,000	2,314	-4,686	
Equipment		30,000	32,470	2,470	Comparator £16k, Weights £6k
UKAS Fees		0	8,915	8,915	
Printing & Stationery		1,140	218	-922	
Insurance		5,813	10,204	4,391	
Postage		800	1,366	566	
Miscellaneous		3,712	1,516	-2,196	
		48,465	57,003	8,538	
CENTRAL ADMIN					
Met Lab Central Admin		39,912	34,055	-5,857	Directorate £14k, Finance £11k, IT £3.5k, Other £5.5k
		39,912	34,055	-5,857	
Total Expenditure		348,206	376,996	28,790	
Net Expenditure		0	-3,872		Contribution to Reserve, see below
Contributions					
Gateshead		-39,663	-39,663		
Sunderland		-54,579	-54,579		
Newcastle		-55,504	-55,504		
South Tyneside		-29,344	-29,344		
North Tyneside		-39,779	-39,779		
		-218,869	-218,869		
Reserve b/f			-74,575		
Appropriation to Reserve			-3,872		
Reserve c/f			-78,447		

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

17 September 2020

Report for period to August 2020

Paul Udall, Group Director, Economy, Innovation and Growth, Gateshead Council.

Purpose of the Report

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

Metrology Laboratory

Operational

2. The laboratory has continued to provide a service throughout the pandemic and has not lost any time or productivity. Social distancing has been maintained and full risk assessments applied along with modified practices to achieve this aim.
3. The submissions to the laboratory have not reduced in quantity in comparison with this time last year, as a predominance of the laboratory's clients are in the pharmaceutical and food production industries and need a continuity of service to maintain their production levels.
4. As was reported in the Gateshead press, the laboratory utilised its 3D printer to make face shields for distribution to carers.

Aid and Advice to Industry

5. Local weighing machine repairers, chemical, pharmaceutical and aeronautical companies continue to submit their test weights, scales and length measures for calibration.
6. The laboratory has been giving advice on practical issues facing local companies with regards to calibrations.

EC Verifications

7. Only one off-site EC verification has been conducted during lockdown period and this was for a company in Middlesbrough.

UKAS Calibrations

8. Weights continue to be submitted for calibration and issue of UKAS Calibration Certificates. In the period 1st March to August 1st there were 1,955 submissions with the issue of over 350 certificates.
9. The laboratory underwent its annual audit by UKAS in February 2020. There were minor issues to deal with, but the laboratory was given a clean bill of health and UKAS had confidence in the laboratory and its procedures.

Product Safety

10. The laboratory has been appointed by Office of Product Safety and Standards as the product safety laboratory for the North East and Yorkshire and Humberside regions.

National Agenda

11. The laboratory has been working with NCFE to develop a T level qualification in Metrology Sciences, other contributors were the National Physical Laboratory and the Laboratory of the Government Chemist.
12. The laboratory has been developing a new Advanced Metrology Module as part of the Chartered Trading Standards Institute's qualification.

Recommendation

13. The Committee is recommended to note the report.

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

17 September 2020

**Competition and Markets Authority: The
Coronavirus (COVID-19) Pandemic, Consumer
Contracts, Cancellation and Refunds. 30 April
2020**

**Anneliese Hutchinson, Service Director, Development, Transport and Public
Protection
Gateshead Council**

Purpose of the report

1. To update the Committee on the publication by the Competition and Markets Authority (CMA) of a Policy Statement on Consumer Contracts, Cancellation and Refunds in April 2020.

Summary

2. During the pandemic and lockdown from March 2020, the CMA received a significant number of complaints from consumers that apparently businesses were not following the legislative provisions in respect of consumer contracts and the requirements for businesses to consider cancellations and refunds.
3. There are a wide range of contracts that have been affected due to the Coronavirus (COVID-19) pandemic. The following sets out the CMA's general views about how the law operates in this area, to help consumers understand their rights and to help businesses treat their customers fairly.

The position in most cases:

4. Where a contract is not performed as agreed, the CMA considers that consumer protection law will generally allow consumers to obtain a refund.
5. In particular, for most consumer contracts the CMA would expect a consumer to be offered a full refund where:
 - a business has cancelled a contract without providing any of the promised goods or services;
 - no service is provided by a business, for example because this is prevented by Government public health measures;
 - a consumer cancels, or is prevented from receiving any services, because Government public health measures mean they are not allowed to use the services.

Limited exceptions to full refunds

6. Sometimes, a consumer will already have received some of the services they have paid for in advance. In those cases, the CMA considers that the consumer would normally be entitled to at least a refund for the services that are not provided. However, where they have already received something of value, consumers should generally be expected to pay for it and they will not usually be entitled to get all their money back.
7. In some cases, where Government public health measures prevent a business from providing a service or the consumer from receiving it, the business may be able to deduct a contribution to the costs it has already incurred in relation to the specific contract in question (where it cannot recover them elsewhere). In the CMA's view, these cases are likely to be relatively rare, however, and the costs that may be deducted from refunds will usually be limited.

Ongoing contracts

8. Where a consumer receives regular services in exchange for a regular payment as part of an ongoing contract, the CMA considers that consumer protection law:
 - will normally require the consumer to be offered a refund for any services they have already paid for but that are not provided by the business or which the consumer is not allowed to use because of Government public health measures (this may be a partial refund of the total amount the consumer has paid, to reflect the value of the services already provided);
 - will normally allow the consumer to withhold payment for services that are not provided by the business or which the consumer is not allowed to use because of Government public health measures;
 - may allow a business to require payment of a small contribution to its costs until the provision of the service is resumed, but only where the contract terms set this out clearly and fairly.

Non-refundable payments and fees

9. In the CMA's view, the above rights to a refund will usually apply even where the consumer has paid what the business says is a non-refundable deposit or advance payment.
10. The CMA also considers that businesses should not charge an admin fee (or equivalent) for processing refunds in the above circumstances.

Credits and re-booking

11. Consumers can normally be offered credits, vouchers, re-booking or re-scheduling as an alternative to a refund, but they should not be misled or pressured into doing so, and a refund should still be an option that is just as clearly and easily available. Any restrictions that apply to credits, vouchers, re-booking or re-scheduling, such as the period in which credits must be used or services re-booked, must also be fair and made clear to consumers.

Timing

12. The CMA accepts that, in the circumstances, it may take businesses longer than normal to process refunds. The timeframes for providing refunds should be made clear to consumers and refunds should still be given within a reasonable time (and, where there are statutory deadlines for payment – like those which apply to package holidays – businesses should take those into account).

Future contracts

13. Some contracts may require consumers to pay now for services they will receive in the future, after the current disruption has lifted. A business should not seek payments for a service it knows it will be unable to provide. Where the business reasonably expects to provide the service as agreed, the CMA's view is that, in general, the business can require consumers to carry on making these payments for the time being. That could be the case, for example, for some services due to be provided later in the year. Consumers' rights to refunds will depend on whether the services can be provided when the time comes.

Cancellation by consumers for other reasons

14. If a consumer cancels a contract because they no longer want the service, even though the service can still be provided as agreed, the consumer will be entitled to a refund in line with the applicable terms and conditions (on the assumption those terms are fair). The CMA has published guidance on unfair contract terms.
15. The above sets out the CMA's views on the law, but only the courts can decide what the law is and the CMA's views are not a substitute for independent legal advice.

Actions Taken

16. Since mid-April, the large majority of complaints received by the CMA have been about unfair practices in relation to cancellations and refunds. In the week to 17 May, cancellation complaints were being received at a rate of 850 per day on average. Consumers have raised concerns about firms refusing to provide refunds; introducing unnecessary complexity into the process of obtaining refunds; charging high administration or cancellation fees; and pressuring consumers into accepting vouchers instead of cash refunds.
17. Around three-quarters of cancellation complaints related to holidays and air travel. The potential harm to consumers from companies failing to respect consumers' cancellation rights is set to grow.
18. The CMA Taskforce is currently investigating whether companies are failing to comply with the law. Three sectors were initially prioritised: holiday accommodation; weddings and private events; and nursery and childcare providers. Based on the number and nature of complaints being received, package holidays has now been included in the scope of the investigation

Recommendation

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

Appendix 1: <https://www.gov.uk/government/publications/cma-coronavirus-taskforce-update-21-may-2020/protecting-consumers-during-the-coronavirus-covid-19-pandemic-update-on-the-work-of-the-cmas-taskforce>

Contact: David Ellerington. City of Newcastle on (0191) 2116119

david.c.ellerington@newcastle.gov.uk

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

17 September 2020

**Competition and Markets Authority: Joint
Statement Against Price Gouging. 3 July 2020**

**Anneliese Hutchinson, Service Director, Development, Transport and Public
Protection,
Gateshead Council**

Purpose of the report

1. To update the Committee on the publication by the Competition and Markets Authority of a Joint Statement Against Price Gouging in July 2020.

Summary

2. During the stages of the early pandemic and lockdown in March 2020, Trading Standards services received a number of complaints from consumers that apparently a number of shops in our neighbourhoods were allegedly exploiting consumers by the raising of prices of certain key products, so called 'price gouging'.
3. Certain small businesses in the West end of Newcastle were one area where this alleged activity was happening. As a result, Ms Chi Onwurah MP raised the issue on behalf of your constituents and also took direct action by writing to any businesses identified as been involved with so-called price gouging as follows:



CHI ONWURAH MP
Newcastle upon Tyne Central

24, 7-15 Pink Lane
Newcastle upon Tyne NE1 5DW
Tel: (0191) 232 5838
Email: chi.onwurah.mp@parliament.uk
Twitter: ChiOnwurah

23/03/20

Dear Shopkeeper

In the face of the Covid 19 pandemic ensuring quality food supplies to the people of Newcastle is an absolutely essential function, and that is why those involved in the sale, delivery, and provision of food have been identified as key workers. I supported that categorisation and want to thank you for the service you are providing.

However, I have been *deeply* disturbed by reports of shops raising prices, particularly of meat and rice, sometimes already in stock, and I regret to inform you that **your shop has been named as one of those who are doing so**. I do hope that is not the case and I have asked for evidence to support such a terrible accusation, but I wanted to share with you the complaints I am receiving. I am in discussions with trading standards and the Competition and Markets Authority about the appropriate steps to take to end such a despicable practice and will publicly name and shame shops which have raised their prices without good cause. We are expecting an amendment to the Coronavirus Bill outlawing price gouging and are pressing for the most severe sanctions possible.

I know that these are very difficult times and small businesses like yourself are facing real challenges in cash flow and supply. My office stands ready to help and you can also find advice at the Newcastle City Council website. I look forward to working with you to ensure affordable food for all during this crisis.

All the very best
Chi

Chi Onwurah
Labour MP for Newcastle upon Tyne Central
Shadow Minister for Industrial Strategy, Science and Innovation

4. As a result of all the concerns as expressed on the 3 July 2020 the Competition and Markets authority issued a joint statement with the following organisations:
 - Association of Convenience Stores
 - Association of Independent Multiple Pharmacies
 - British Retail Consortium
 - Chartered Trading Standards Institute
 - Federation of Independent Retailers (NFRN)
 - Federation of Wholesale Distributors
 - Scottish Wholesale Association
5. The statement made it clear that the CMA remain concerned about the behaviour of a small number of businesses at that time. The vast majority have responded responsibly, but there is a minority who have not. Those who inflate prices to profit off the backs of their customers are adding to their distress at a time of particular vulnerability and may be severely damaging their own reputation.
6. Consumers are likely to remember those businesses who attempted to profiteer and may well vote with their wallets once this crisis ends. For many businesses, the crisis could represent an opportunity to do the right thing, and as a result develop relationships with new customers.
7. Based on evidence the CMA has received since it launched its Taskforce, the largest price increases, as well as the largest number of price complaints, concern hand sanitiser, with a median reported rise of just under 400%. The average reported increase across all reports, covering products such as paracetamol, flour, meat, toilet roll, rice and eggs is 160%.

8. If customers have been affected by price rises, they can report poor business behaviour to the CMA using its online form to report businesses. In addition, the CMA urges retailers to report examples where prices are being raised because of increases in supplier costs through the same form.
9. The CMA is keeping all evidence it receives under review and will not hesitate to take enforcement action where there is evidence that the law has been broken.
10. To set this in context the CMA asserted that the proportion of shops reported for price increases is a small minority in all nations: seven in every thousand in England, and two in every thousand in the other nations of the UK.

Recommendation

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

Appendix1 Letter from Chi Onwurah MP (Newcastle Central):
<https://chionwurahmp.com/2020/03/chi-writes-to-shopkeepers-accused-of-price-gouging/>

Contact: David Ellerington. City of Newcastle on (0191) 2116119
david.c.ellerington@newcastle.gov.uk

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

17 September 2020

**Personal Protective Equipment: Face Masks
and Coverings. June 2020**

**Anneliese Hutchinson, Service Director, Development, Transport and Public
Protection
Gateshead Council**

Purpose of the report

1. To update the Committee on the publication by the Office for Product Safety & Standards (OPSS) of guidance to enforcement authorities on the implications of the Personal Protective Equipment (PPE) legislation on Face Masks and Coverings, during the Covid19 Pandemic.

Summary

2. During the pandemic and lockdown from March 2020, it became very clear that the demand for PPE, significantly increased and Trading Standards services working in partnership with OPSS, dealt with a number of complaints that certain businesses were not following the legislative provisions in respect of the safety of certain PPE including face masks.
3. Guidance relevant to face masks that are regulated under PPE, and Medical Devices (MD) legislation and face coverings regulated under the General Product Safety Regulations 2005.
4. There are three different categories of products, as follows:
 - Face masks that are designed to protect the wearer, and are subject to the requirements of the PPE regulations;
 - Surgical face masks, that are intended to protect others (the patient) from the wearer and are subject to the requirements set out in the Medical Devices regulations; and
 - General purpose face coverings, that are not PPE or Medical Devices, these are regulated by the General Product Safety Regulations.

Regulations: Definition and Categories of PPE

5. The relevant legislation is EU Regulation 2016/425 on Personal Protective Equipment (the PPE Regulation). PPE must meet the essential health and safety requirements that are set out in Annex II of the PPE Regulation.
6. PPE is defined by the regulations as *“equipment designed and manufactured to be worn or held by a person for protection against one or more risks to that person’s health or safety; interchangeable components for this equipment, or connection systems that are not held or worn but are designed to connect that equipment to an external device or to a reliable anchorage point, that are not*

designed to be permanently fixed and that do not require fastening works before use.”

7. The regulations establish three categories of PPE, based on the severity of hazard that the equipment offers protection from, rather than the complexity of the PPE itself. These categories are:
 - Category 1: PPE that protects from simple or minimal risks, these are listed in Annex 1 of the Regulations. Manufacturers are able to self-declare conformity. Examples of this category include items such as sunglasses and washing up gloves.
 - Category 2: PPE that does not fall into categories 1 or 3. These products requires ‘type approval’ by a notified body, and manufacturers are able to self-declare on production control. The notified body number is not required on the product. Examples of this category include high visibility jackets, bicycle helmets, hardhats and oven gloves.
 - Category 3: PPE where the hazard may cause serious harm to the health and safety of the user and includes hazards such as biological agents as listed in Annex 1 of the PPE Regulation. Products must normally be ‘type approved’ and the production control system must be reviewed by a notified body, either through audit or sample testing. Examples of this category include items such as respirator masks and life jackets. All PPE for specific use to protect against the risk of COVID-19 including respiratory face masks, is category 3 PPE.
8. The enforcement authority for the legislation which applies to PPE intended for consumer use are LA Trading Standards services.

PPE in the context of COVID-19: easements

9. The Government has put in place two regulatory easements in relation to COVID-19 PPE from the requirements set out in Regulation EU 2016/425 and issued revised guidance on PPE within the context of COVID-19.
10. For a limited time, to speed up supply of essential equipment, COVID-19 related PPE can be placed on the market before it has completed conformity assessment procedures, provided it meets essential health and safety requirements in line with Regulation EU 2016/425. However, manufacturers must have contacted a notified body and have begun conformity assessment. The notified body must be in a position to support the claim that the product meets the essential health and safety requirements.
11. The second easement, also for a limited time, is that any COVID-19 related PPE that is being procured by the Government/NHS for use by healthcare workers does not need to be conformity assessed, providing it has been manufactured either in line with a relevant European Standard, in accordance with a standard referenced in the WHO guidelines or to an alternative technical solution that delivers adequate safety. Equipment procured in this way will be assessed by the MSA, the Health and Safety Executive, against the essential health and safety requirements to ensure it is safe and effective. PPE procured in this way must be offered through the official channels, with contact made through the GOV.UK webform. This route is best suited to large-scale manufacturers.

Application of regulations to small businesses and donated PPE

12. Within the context of COVID-19, small businesses, individuals, and organisations such as charities and schools are offering PPE for donation or sale. This includes 'home made' sewn or 3D printed PPE for both workplace and personal use. If such equipment is intended to provide protection and is PPE, OPSS made it clear that such equipment is subject to the same regulations and market surveillance activities as PPE imported and manufactured in any other way.
13. Officers dealt with a number of enquiries from businesses which had switched to manufacturing PPE and also responded to intelligence received from the OPSS which expressed concerns where suspected illegal PPE had been imported into the UK.

Recommendation

14. The Committee is asked to note the information as contained within the report.
Appendix
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/892749/Guidance-for-local-authorities-on-face-masks-and-coverings-version-2.pdf

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