

# North Tyneside Council

## Report to Cabinet

### Date: 14 January 2013

**ITEM 7(a)**  
Title: Regional Trading  
Standards Enforcement  
Team

Portfolio(s): Community & Regulatory  
Services

Cabinet Member(s): Cllr George  
Westwater

Report from Directorate: Chief Executive's Office

Report Author: Graham Haywood  
Chief Executive

Tel: (0191) 643 2001

Wards affected: All

## PART 1

### 1.1 Purpose:

This report seeks Cabinet approval for entering into an arrangement to enable and authorise Redcar and Cleveland Borough Council to investigate and undertake enforcement activity pursuant to specified Trading Standards legislation within the Borough of North Tyneside.

### 1.2 Recommendation(s):

It is recommended that Cabinet:

1. Note the existence of the Regional Trading Standards Enforcement Project ('Scambusters') funded by the Department of Business, Innovation and Skills (BIS) through the National Trading Standards Board (NTSB) to support cross border enforcement and that, in the North East of England, the project is led by Redcar and Cleveland Borough Council;
2. Agree to delegate the Council's enforcement function as a local weights and measures authority under the legislation specified in at **Appendix 1** of this report to Redcar and Cleveland Borough Council to enable it to undertake enforcement on behalf of the Council; and
3. Delegate authority to the Head of Business and Economic Development (and, on a temporary basis pending the postholder to the said post joining the Authority, to the Head of Legal, Governance and Commercial Services), in consultation with the Strategic Director of Finance and Resources, the Head of Legal, Governance and Commercial Services and the Cabinet Member for Community and Regulatory Services, to enter into a protocol with Redcar & Cleveland Borough Council for such

purpose in relation to the enforcement function as a local weights and measures authority, and to deal with all ancillary matters consistent with the above resolutions.

### **1.3 Forward Plan:**

28 days' notice of this report has been given and it first appeared on the Forward Plan that was published on 14 November 2012.

### **1.4 Council Plan and Policy Framework:**

The Regional Trading Standards Enforcement project aims to target cross border fraudulent and malicious trading practices often involving the most vulnerable members of communities within the region. It therefore seeks to marginalise and drive out rogue traders and support and encourage legitimate business.

The project therefore contributes towards the Council Strategic Plan 2012-15 Priority 4: Creating safe and secure communities.

Additionally, the project also contributes towards the priorities of the North Tyneside Strategic Partnership Sustainable Community Strategy 2010-13, Priority 2: Quality of Life and to the North Tyneside Strategic Partnership Older People's Strategy 2011-2016: Priority 2 – Our residents live in sustainable, safe neighbourhoods and towns, and Priority 3 - Older people remain healthy and independent for as long as possible, with a good sense of wellbeing.

### **1.5 Information:**

#### **1.5.1 Trading Standards Enforcement**

Local authorities in the United Kingdom are appointed as local weights and measures authorities by the Weights and Measures Act 1985. This is more commonly recognised as the local provision of a Trading Standards Service. The Council is appointed as the local weights and measures authority in the Borough of North Tyneside and as such is responsible for enforcing a wide range of primary legislation aimed at protecting consumers and legitimate business, including for example: the Consumer Credit Act 1974, the Consumer Protection Act 1987, the Consumer Protection from Unfair Trading Regulations 2008, and the Business Protection from Misleading Marketing Regulations 2008.

Consumer crime is local, regional, national and international and therefore crosses local authority boundaries. In 2005 the Department of Trade and Industry (DTI) published a consumer strategy 'A Fair Deal for All – Extending Competitive Markets: Empowered Consumers, Successful Business'. Following this, Government set out its commitment to provide funding for regional enforcement teams to more effectively tackle consumer related crime that crossed those locally defined boundaries. The aim was to focus attention on scams and fraudulent trading practices affecting the vulnerable within local communities but that had implications and impacts beyond these.

The remit of the Trading Standards Regional Enforcement Team (known as 'Scambusters') is to:

- Provide a flexible additional resource to enhance the capacity of Trading Standards to tackle cross border criminality;
- Improve liaisons with other enforcement agencies and drive forward the use of the National intelligence Model (NIM) management tool used widely by the Police; and
- Develop, introduce and disseminate best practice.

In the North East of England, the Scambusters initiative is regionally hosted by Redcar and Cleveland Borough Council with oversight from the National Trading Standards Board (NTSB), with strategic direction provided from the 12 local authorities including North Tyneside.

The officers within the Scambusters team are directly employed by Redcar and Cleveland Borough Council and consist of 3 Investigating Officers, a Business Support Officer and a Regional Intelligence Officer managed by a Regional Enforcement Manager.

The local benefit this team bring to North Tyneside is significant. The Council in effect has at its disposal an additional enforcement resource that it can task which is capable of working across boundaries, linked directly to a national network, and able to focus specifically on rogue traders and protecting the vulnerable.

Doorstep crime is one such area where the added enforcement capability benefits North Tyneside Council. This type of crime usually involves criminality carried out by unscrupulous traders working across many authorities' borders. These criminals prey on the elderly and vulnerable members of society, carry out unnecessary, substandard and sometimes even dangerous work and then use strong arm tactics to persuade consumers to part with large sums of money for poor workmanship.

As the project has become embedded since its commencement in 2008 the next step, in order to increase the efficient deployment of the Scambusters team within the Borough, is to delegate enforcement powers to its officers.

#### 1.5.2 National Statistics and recent Regional Enforcement Team Successes

The following are a number of the Key Statistics for the national Scambusters initiative achieved between April 2008 and 31<sup>st</sup> March 2011\* (9 regions covering: Scotland, North East, North West, Yorks and Humber, East Midlands, Central England, Wales, South East and London (ceased to operate 31.03.11) and the South West):

- Issued **17** written warnings and **20** formal (simple) cautions;
- Charged defendants with **920** offences;
- **65** defendants convicted;
- Over **£15,000** in fines;
- Nearly **£140,000** in costs awarded;
- **99** arrests;
- Prison sentences totalling **81 years**;
- Over **1300 hours** of community service imposed;
- **£24,849,262.71** direct / actual consumer savings;
- **£44,188,794.83** estimated / future consumer savings;
- Potential fraud to the value of **£64 million** uncovered;
- Over **£16 million** of assets seized under Proceeds of Crime; and

- **£2.5 million** worth of counterfeit foods seized.

(\*Due to the recent change in funding and a move towards a differing reporting format up to date National figures are unavailable at this time.)

Examples of casework carried out by officers in the North East region include:

- A Will Writer in Stockton, operating across the UK, was issued with an Enforcement Order directing him not to engage / continue to engage in practices financially detrimental to his customers (such as inflating prices dependent on the victim's financial circumstances, making false and misleading statements in regard to the efficacy of the will and not completing wills in a timely manner or not even completing them at all) with a view to preventing continuing fraudulent malpractice:
- Arrest, interview and summons of a seller of counterfeit jewellery in Hartlepool for breaches of Copyright and Trade Marks Legislation. The majority of the jewellery contained infringing trade marks relating to Premiership Football teams including Newcastle and Sunderland; and
- The issue of Fixed Penalty Notices to a regional Estate Agent which did not meet the client standards required by provisions under the Consumer Estate Agents and Redress Act 2007.

### 1.5.3 Objectives of the Initiative

The initiative has two main objectives:

**Objective 1** – The protection of local, regional and national consumers / businesses from fraudulent and malicious trading practices originating within, or focusing on, the individuals and communities across the twelve local authorities within the North East.

The regional team is currently involved in a number of active investigations or intelligence gathering activities. Examples include:

- “Rogue” trading: - fish sellers, a regional lettings agency and a number of building trade businesses / individuals involved in fraudulent door-to-door trading primarily targeted at vulnerable adults;
- The sale of counterfeit goods over the internet; and
- Car trade issues relating to misdescriptions and roadworthiness.

**Objective 2** - The continued development and enhancement of a regional enforcement resource, working alongside and in partnership with local Trading Standards Services, in a reactive and proactive manner, with the aim of tackling rogue trading practices.

Heading up the Regional Intelligence Liaison Group, comprising Trading Standards Intelligence Officers from each Local Authority Trading Standards Service (LATSS), the Scambusters initiative is proactively using the National Intelligence “Memex” Database throughout the region. Aimed at creating a regional source of data which can be mined to target individuals and rogue businesses based in and operating across the North East, the Memex database also acts as a major source of accurate and reliable data allowing forward planning at regional and local level.

A Regional Intelligence Officer, based within and funded by the Scambusters team, is tasked with analysing intelligence and current trends to promote a proactive and co-ordinated approach to enforcement within the team and throughout the region.

#### 1.5.5 Delegation

In order to make better and therefore more efficient use of the Scambusters team in the Borough, relevant officers from Redcar and Cleveland Borough Council require formal delegation of functions in order for them to lawfully lead investigations and enforcement activities in relation to specified consumer protection legislation.

It is proposed that any such delegations will be subject to regular review.

In order to ensure clarity in respect of the operation of these arrangements, a draft protocol has been devised and this is attached to this report in **Appendix 1**. The draft protocol sets out the processes and practices necessary to enable Redcar and Cleveland Borough Council and its officers to undertake investigations.

It is important to note that such delegation does not prevent North Tyneside Council's Trading Standards Service from itself undertaking investigations in relation to the powers that it is proposed to delegate, rather it is the aim that the Scambusters regional team provides additional enforcement resource to carry out such investigations alongside the Council's Trading Standards Service.

#### 1.6 **Decision Options:**

The options available to Cabinet are:

##### Option 1

To note the existence of the additional enforcement resource provided through the Regional Enforcement Team and to agree with the recommendation to delegate the specified functions as set out in the recommendations in section 1.2 to this report.

##### Option 2

To note the existence of the additional enforcement resource provided through the Regional Enforcement Team but to reject the recommendation to delegate the specified functions as set out in the recommendations in section 1.2 to this report.

##### Option 3

To refer any of the matters arising in this report back to officers for further consideration.

Option 1 is the recommended option.

#### 1.7 **Reasons for Recommended option:**

Option 1 is the recommended option for the following reasons:

The proposal seeks to add to the Council's existing resources by enabling the Trading Standards function to have access to a team of suitably skilled officers based within the

Regional Enforcement Team to assist with the enforcement of fraudulent and malicious trading practices within the Council's boundaries but which have an impact further afield.

The enforcement resource of the officers from the Regional Enforcement Team will enhance further the Council's capacity and provides a resource it would not otherwise have ready and available access to.

## **1.8 Appendices:**

Appendix 1 – Draft Protocol for Regional Enforcement Team Investigations.

## **1.9 Contact Officers:**

Colin MacDonald, Senior Client Manager, Technical Services, Tel: (0191) 643 6620

Alan Burnett, Principal Trading Standards Officer, Tel: (0191) 643 6621

Dave Hedley, Senior Trading Standards Officer, Tel: (0191) 643 6623

Alison Campbell, Financial Business Manager, Tel: (0191) 643 7038

## **1.10 Background Information:**

The following background papers / information have been used in the compliance of this report and are available at the office of the author.

- DTI Report June 2005 'A Fair Deal for All' - Extending Competitive Markets: Empowered Consumers, Successful Business; [Fair Deal for All' - Extending Competitive Markets Empowered Consumers, Successful Business.pdf](#)
- A Better Deal for Consumers: Developing real help now and change for the future (BIS July 2009); [A Better Deal for Consumers Developing real help now and change for the future \(BIS July 2009\).pdf](#)
- National Audit Office Protecting consumers – the system for enforcing consumer law (June 2011); [National Audit Office Protecting consumers – the system for enforcing consumer law \(June 2011\).pdf](#)
- Empowering and Protecting Consumers: Government response to the consultation on Institutional reform (April 2012); [empowering-protecting-consumers-government-response.pdf](#)
- North Tyneside Council Enforcement Policy. [North Tyneside Council Enforcement Policy.pdf](#)

## **PART 2 COMPLIANCE WITH PRINCIPLES OF DECISION MAKING**

### **2.1 Finance and Other Resources:**

There are no direct financial implications arising for the Council as a result of this proposal. The National Trading Standards Board (NTSB) has provided £260,000 to fund the initiative in the North East during 2012/13 and is currently proposing to sustain budget provision to support the initiative for the following three years. There is no financial liability for the Council since the initiative provides additional service capacity funded externally. The initiative is co-ordinated regionally by Redcar and Cleveland Borough Council and investigating officers are employed by them.

### **2.2 Legal:**

It is the duty of each local weights and measures authority to enforce the provisions of specified legislation within their local authority area. These are executive functions for the purposes of the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and therefore it is necessary for Cabinet as the executive to formally delegate such functions to Redcar and Cleveland Borough Council under section 9EA of the Local Government Act 2000 and the Local Authorities (Arrangement for the Discharge of Functions) (England) Regulations 2012, as envisaged in this report. Redcar and Cleveland Borough Council is also required to formally accept the delegation.

Any prosecutions arising from such investigatory or enforcement activity will be undertaken by North Tyneside Council with no liability for costs to Redcar and Cleveland Borough Council.

### **2.3 Consultation/Community Engagement:**

The initiative is a nationally funded scheme that assists local authorities to enforce their legislative functions in the field of cross border Trading Standards related criminality. The strategic management of the initiative is managed by the National Trading Standards Board and is beyond the control of the Council. There is therefore limited scope for external consultation or community engagement to influence delivery of the project. The key decision is for the Executive to decide whether or not the Council participates in the project at an enforcement level.

### **2.4 Human Rights:**

Investigations undertaken by Redcar and Cleveland Borough Council will be undertaken within the scope of the specified legislation and the Regulation of Investigatory Powers Act 2000, having full regard to the rights of the individual balanced against the interests of the wider general public. In reaching any decision or taking subsequent action due regard will be given to North Tyneside Council's Statement of Enforcement Policy and the Human Rights Act 1998, by ensuring that enforcement activity takes place in a proportionate manner and only where it is considered necessary and in the public interest.

## **2.5 Equalities and Diversity:**

A new Equality Impact has been carried out (ref: 1704). This EIA recognises that it is often the poorer and more vulnerable members of society who become victims of rogue trading and find it difficult to access appropriate support and help. Participation in the Scambusters initiative overall has a positive impact in the enforcement and prevention of incidents of rogue trading occurring in the Borough.

An extensive range of guidance literature is available to assist consumers and this is available in different formats to reflect in languages that reflect this diversity, for example in larger font and different languages. Where language difficulties occur, the service has access to an interpretation service. The Trading Standards service continues to develop its practices aligned to the Local Government Equality Standard.

## **2.6 Risk Management:**

Risks associated with delivery of the Trading Standards function are monitored through the Chief Executive's Office Operational Risk Management Group and, more recently and additionally, via the governance arrangements within the Council's strategic partnership with Capita Symonds. The risks associated with this report are and will continue to be managed within that recognised framework.

## **2.7 Crime and Disorder:**

Consumer crime that has a cross border impact invariably harms low-income households and the most vulnerable members of society. This can mean that their activities have disproportionate implications for the more deprived areas and action taken against them therefore supports the policy priorities associated with reducing crime and disorder and protecting the more vulnerable members of the community.

Marginalising rogue traders creates an environment which supports and encourages legitimate business and reduces the fear of crime.

Instances of unfair trading are investigated in accordance with specific legislation and in accordance with the Regulation of Investigatory Powers Act 2000.

## **2.8 Environment and Sustainability:**

There are no direct implications for environment and sustainability arising from this report.



### **PART 3 – SIGN OFF**

- Chief Executive  X
- Strategic Director(s)  X
- Mayor/Cabinet Member(s)  X
- Chief Finance Officer  X
- Monitoring Officer  X
- Strategic Manager Policy and Partnerships  X