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Summary

This report presents results from a survey of trading standards activities carried out by councils in England during the financial year April 2016 to March 2017.

An online survey was emailed to all councils undertaking tobacco control activities in England in April 2017 (151 councils in total). The deadline for completion of the survey was Friday 19 May 2017. The survey was completed by 145 councils, which is a response rate of 96%. Although this response rate is high, the base for some findings does vary as not every respondent answered every question.

Tobacco control activities

- 96% of responding councils were undertaking at least one type of tobacco control activity.
- Of all councils in England:
 - 93% had undertaken activities related to illicit tobacco products.
 - 84% had undertaken activities related to underage sales for tobacco products.
 - 74% had undertaken activities related to underage sales for nicotine inhaling products (NIPs).
 - 66% had undertaken activities related to the Tobacco and Related Products Regulations 2016 (TRP).
 - 56% had undertaken activities related to the display and pricing of tobacco products.
 - 30% had undertaken activities related to the Standardised Packaging of Tobacco Products Regulations 2015 (SPoT).

Underage sales: tobacco products

- 84% of all councils had conducted tobacco control activities in relation to underage sales.
- 73% of all councils had dealt with complaints and enquiries about underage sales of tobacco concerning retail premises, receiving 973 complaints and enquiries in total. If this figure is used as an indication of the likely picture in non-responding councils, this would mean an estimated total of around 1,000 complaints and enquiries about underage sales from retail premises were received in England in 2016/17.
- 104 out of the 106 councils that had received complaints and enquiries concerning retail premises were able to provide detail on the types of premises complaints and enquiries had been received about. The greatest proportion of complaints and enquiries were received regarding small retailers (49%).
- 69% of all councils had undertaken visits by trading standards officers, with 4,826 visits in total. If this figure is used as an indication of the likely picture in non-responding councils, this would mean an estimated total of around 5,100 visits by trading standards officers were undertaken in England in 2016/17 concerning underage sales.
- 95 out of the 100 councils that had undertaken visits by trading standards officers were able to provide detail on the types of premises visited. The greatest proportion of visits were to small retailers (44%).
- 65% of all councils (which is 80% of those who conduct activities related to underage sales) had carried out visits to retail premises with volunteer young persons (aged under 18) to test compliance with the legislation on the sale of tobacco products to under-18s. Of these, 92 out of 94 councils had supplied the number of premises visited and resulting sales:
 - For the 92 councils, the total number of premises visited was 2,115. If this figure is used as an indication of the likely picture in non-responding councils, this would mean an estimated total of around 2,500 premises across England were visited by volunteer young persons conducting test purchase operations in 2016/17.



Display and pricing of tobacco products: actions taken

- 35 councils that conducted tobacco control activities in relation to the display and pricing of tobacco products stated they had taken action; 33 provided detail on the action taken; of these:
 - Verbal or written warnings were the most common type of action taken by councils (94%).
 - 2 councils had undertaken legal action (prosecution cases).
 - 2 councils stated that 2 prosecutions had ended in a business conviction.
 - Neither council stated that their prosecution cases had ended in the conviction of an individual.
 - Both prosecutions had resulted in a fine of under £500.

Guidance to businesses about the Tobacco and Related Products Regulations 2016 (TRP)

- 66% of all councils had undertaken tobacco control activities in relation to the TRP. Of these 82 councils:
 - 85% had provided guidance to business about the Regulations.

Guidance to businesses about the Standardised Packaging of Tobacco Products Regulations 2015 (SPoT)

- 30% of all councils had undertaken tobacco control activities in relation to SPoT. Of these 44 councils:
 - 91% had provided guidance to businesses about the Regulations.

Article 5.3 of the Framework Convention on Tobacco Control (FCTC)

- 40% of all councils had a written policy in relation to Article 5.3 of the Framework Convention on Tobacco Control (FCTC).



Methodology

The 2016/17 survey questionnaire was developed jointly by the DH and CTSI.

Tobacco control lead officers within councils were advised of the survey in advance to increase the response rate.





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Underage sales activity

Although the percentage of secondary school children that report smoking (at least once) has declined over the past 30 years to its lowest ever rate of 18%⁷ there can be no room for complacency.

7





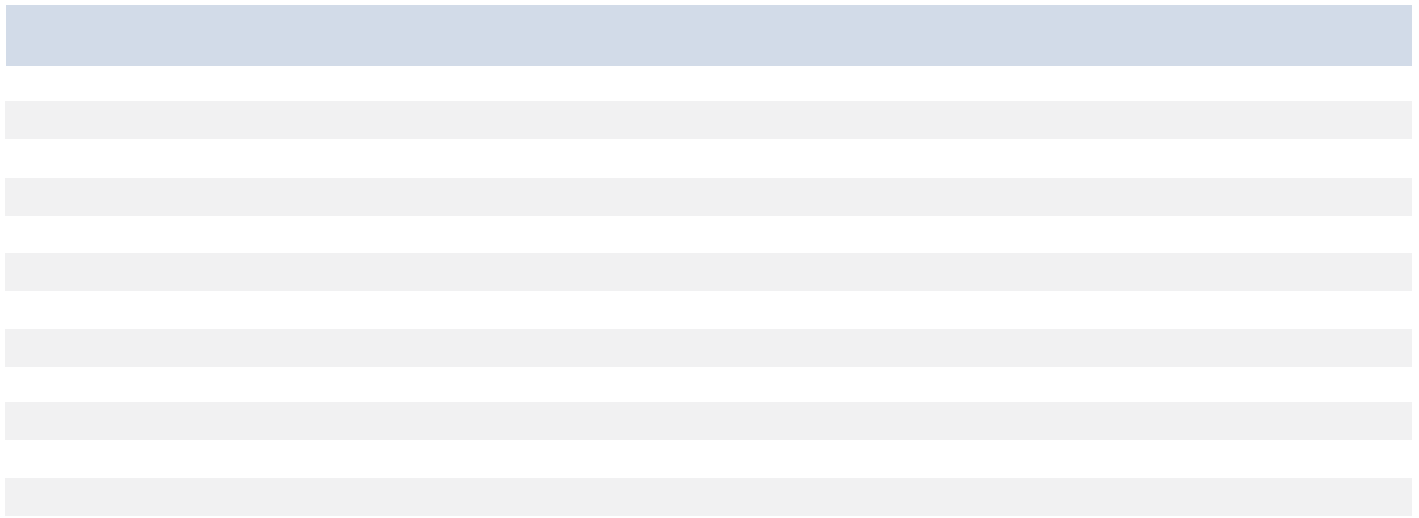
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Breakdown of visits undertaken by trading standards officers by premises type

Councils were asked to provide a breakdown of visits undertaken by trading standards officers by premises type.

Analysis has only been conducted where councils undertook visits and were able to provide an accurate breakdown across all premises types for visits by trading standards officers; 95 out of 100 councils were able to provide this detail.

In total 4,517 visits were undertaken by these councils, with the largest proportion of visits being undertaken at small retailers (44%), followed by off-licences (29%); the smallest proportion were undertaken at private homes (<0.5%).



Conducting test purchase operations with volunteer young persons

65% of all councils carried out test purchase operations at retail premises with volunteer young persons.

Of those conducting work around underage sales, 20% of councils were engaged in underage sales activities but not carrying out work with volunteer young persons in test purchase operations in premises. For these (24 councils) the most frequently cited reason was lack of intelligence (stated spontaneously by 14 councils), followed by staff resource being directed at other underage sales activities and lack of staff resource overall (7 councils respectively).

Test purchasing of tobacco: summary of visits and illegal sales to volunteer young persons at premises

The following section of the report provides a detailed breakdown of enforcement work for underage test purchase operations by volunteer young persons and the resulting illegal sales. The charts below provide a summary of the number of test purchase operations and illegal sales made at retail premises.

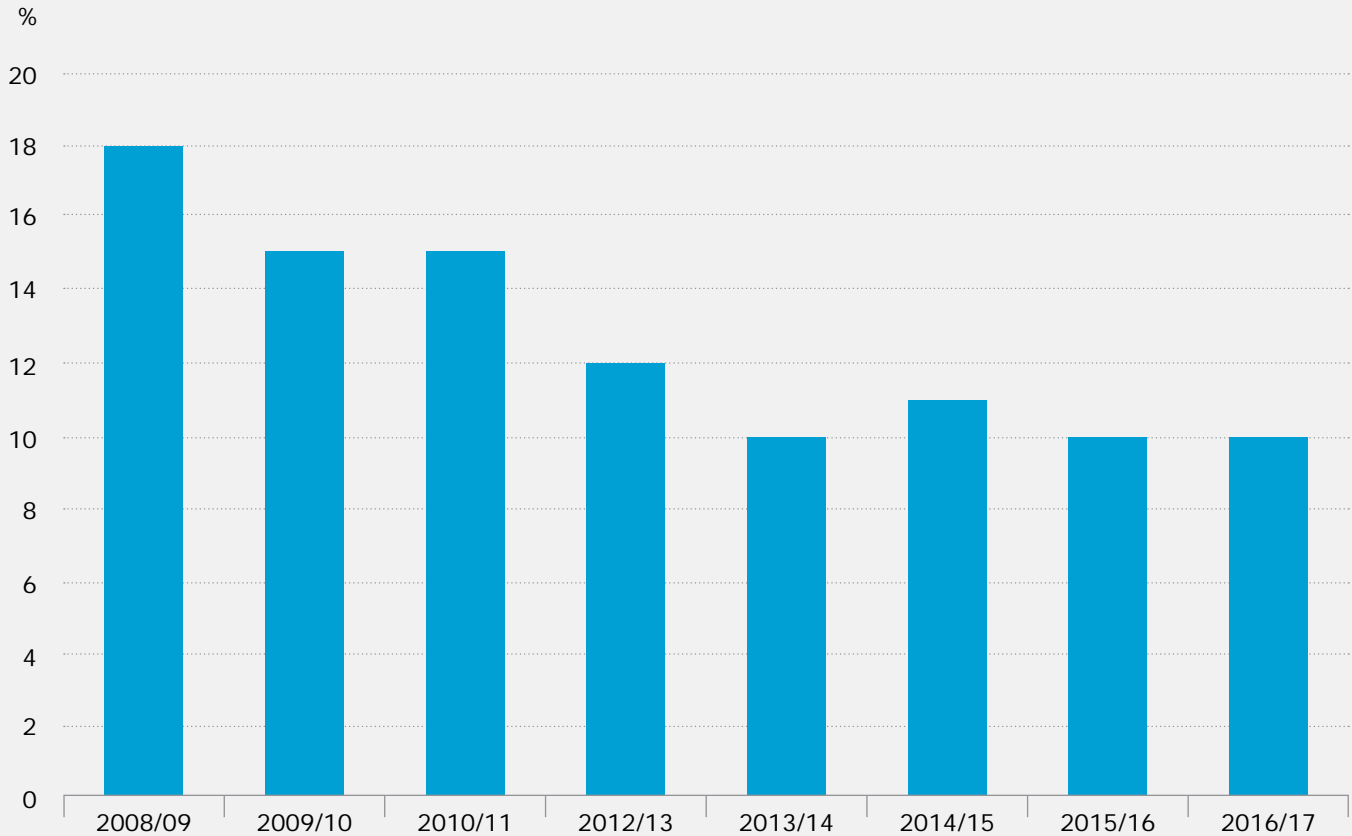


Proportion of visits to premises resulting in illegal sales

For the 92 councils that provided data on both the number of premises visited and the number at which cigarettes were sold to underage young persons, illegal sales of cigarettes occurred in 10% of test purchases at premises.

The sales rate has significantly decreased from a high of 18% in 2008/09 to the current rate in 2016/17 of 10%.

Figure 6: Percentage of visits to premises by volunteer young persons resulting in illegal sales, between 2008/09 and 2016/17



Base: Total number of visits made in 2008/09 (4,679); total number of visits made in 2009/2010 (5,240); total number of visits made in 2010/2011 (6,955); total number of visits made in 2012/2013 (4,381); total number of visits made in 2013/2014 (2,880), total number of visits made in 2014/2015 (2,838), total number of visits made in 2015/16 (2,275), total number of visits made in 2016/17(2,155)

Types of premises¹²

Councils were asked to provide a breakdown of the types of premises visited with volunteer young persons and the number of premises where tobacco was sold.

Analysis has only been conducted where councils were able to provide an accurate breakdown across all premises for both visits and sales; 91 councils out of 92 were able to provide this detail.

For these councils, in total 2,143 visits were undertaken by volunteer young persons, with the largest proportion of visits being conducted at small retailers (46%) and just 1 visit undertaken to a private home.

¹² For guidance on definitions of premises types please see annex 1



Actions taken in relation to the Children and Young Persons Act 1933 (as amended)

Breaches of the Children and Young Persons Act 1933 (as amended)

All councils that had undertaken activity in relation to underage sales were asked about actions taken as a result of underage sales activity.

Of councils that had undertaken activity in relation to underage sales, 49% stated that action had been taken as a result of a breach of the Children and Young Persons Act 1933 (as amended) between 1 April 2016 and 31 March 2017. This equates to 40% of all councils.

Actions taken in relation to breaches of the Children and Young Persons Act 1933 (as amended)

Respondents that had taken action were asked to provide detail on the types of actions that had been taken. Of those that had taken action, and could provide detail (57 out of 58 councils), verbal or written warnings were the most common type of action to be taken (69%).

Table 7: In relation to all underage tobacco sale activity, how many of the following actions did you take?

Type of action	Percentage taking action (%)	Median number per council (in councils taking action only)	Base
Verbal or written warnings	69	2	57
Simple cautions issued	39	3	57

Prosecutions relating to the 1933 Act (as amended)

Of the councils that had undertaken action (57 councils), 18% had taken formal legal action. The median number of prosecutions was 1 per council, with 17 prosecutions in total.

All 10 councils that had taken action were able to provide detail on the outcomes of prosecutions:

- 3 councils stated that 1 or more of their prosecution cases had ended in a conviction against a business (a total of 4 convictions, with a median average of 1 per council).
- 4 councils stated that 1 or more of their prosecution cases had ended in a conviction of an individual, with 6 convictions of individuals and a median average of 1 conviction per council.
- 1 council convicted 1 business as a repeat offender. 3 councils convicted one individual each as a repeat offender.

Fines as a result of legal proceedings in relation to the 1933 Act (as amended)¹³

5 councils, out of the 10 that reported a prosecution, stated that magistrates had imposed a fine as a result of one or more of these convictions. 40% of the fines imposed were £201-£300, with another 40% being £401-£500. Table 8 depicts the findings.

¹³ The band ranges were collected at a more granular level in 2016/17. For a comparison of the differences please see the Tobacco Control Survey Report 2016





104 out of the 108 councils conducting activities in relation to underage sales for NIPs could provide detail on the number of visits by trading standards officers to premises.

104 out of the 108 councils conducting activities in relation to underage sales for NIPs could provide detail on the number of visits by trading standards officers to premises.

60% of all councils (87 councils) had undertaken visits to premises by trading standards officers in relation to underage sales for NIPs; in total 970 visits were undertaken by councils in 2016/17.

If this figure is used as an indication of the likely picture in non-responding councils, this would mean an estimated total of around 1,000 visits in relation to underage sales from retail premises were made by trading standards officers in England in 2016/17.

Councils were asked to provide a breakdown of visits undertaken by trading standards officers by premises type.

Councils were asked to provide a breakdown of visits undertaken by trading standards officers by premises type.

Analysis has only been conducted where councils undertook visits and were able to provide an accurate breakdown across all premises types for visits by trading standards officers; 87 out of the 88 councils that had undertaken visits were able to provide this detail.

In total 924 visits were undertaken by these councils, with the largest proportion of visits being undertaken at a convenience store/grocer (39%), followed by specialist e-cigarette providers (30%); the smallest proportion were undertaken at online retailers (<0.5%).

Table 10: Proportion of visits by trading standards officers by premises type

Type of premises	Visits undertaken (%)
Convenience store/grocer	39
Specialist e-cigarette supplier	30
Independent newsagent	7
Market/car boot sale	5
Discount shop	5
Large retailer	5
National newsagent	2
Petrol station kiosk	2
Pharmacy national chain	1
Mobile phone shop	1
Pharmacy independent	<0.5
Online retailer	<0.5
Other	3
Base number of complaints and enquiries	924
<i>Number of councils providing data</i>	86



Actions taken in relation to a breach of the Children and Families Act 2014

Breaches of the Children and Families Act 2014

All councils that had undertaken activity in relation to underage sales for NIPs were asked about actions taken as a result of underage sales for NIPs activity.

Of councils that had undertaken activity in relation to underage sales, 52% stated that action had been taken as a result of a breach of the Children and Families Act 2014 between 1 April 2016 and 31 March 2017. This equates to 39% of all councils.

Actions taken in relation to breaches of the Children and Families Act 2014

Respondents that had taken action were asked to provide detail on the types of actions that had been taken. Of those that had taken action, and could provide detail (all 56 councils), verbal or written warnings were the most common type of action to be taken (82%).

Percentage taking

Type of action	Percentage taking action (b)
Verbal or written warnings	
Simple cautions issued	





Illicit tobacco products

UK-tax-paid cigarette consumption has steadily declined from 49.5 billion cigarettes in 2005/06 to 32 billion cigarettes in 2015/16²⁶. This accords with the overall decline in adult smoking prevalence from 24% in 2005²⁷ to 19% in 2014²⁸.

There has also been a long term decline in the estimated volume of cigarettes in the illicit market from 10 billion cigarettes in 2005, compared to central estimates of between 3-5 billion in the years since 2010/11²⁹.

The UK-tax-paid consumption volume of hand-rolling tobacco steadily increased between 2005/06 and 2012/13 and has been relatively stable since then³⁰.

The illicit market volume of hand-rolling tobacco has shown a long term decline since 2005/06 and in 2015/16 was estimated to be 3,200 thousand kg³¹.

Trading standards play a key role within their communities and across their regions in tackling the supply of illicit tobacco. In previous years, large scale coordinated activities – ‘Operation Henry 1 & 2’^{32 33} – have demonstrated the value of working locally to disrupt illegal supply.

CTSI continues to work with HMRC to develop new ways of sharing information in a bid to facilitate enhanced collaboration between trading standards and HMRC officers.

93% of all councils conducted activities in relation to illicit tobacco products³⁴.

Regional strategies for illicit tobacco

76% of all councils stated that there was a strategy in place in their region to tackle illicit tobacco products.



Type of premises	Complaints and enquiries received (%)
Small retailer	49
Private homes	16
Off-licence	7
Independent newsagent	6
Pub/club	3
Large retailer	1
Market/car boot sale	1
Petrol station kiosk	<0.5
National newsagent	<0.5
Other	16
Base number of complaints and enquiries	3,705
<i>Number of councils providing data</i>	124

Seized by the smallest proportion of councils (by just 9% respectively) were raw tobacco and counterfeit tobacco packaging/pouches.

Table 17: Please provide details below on types of products and total amount of products that have been seized within your local authority area between 1 April 2016 and 31 March 2017

Type of products	Percentage seizing products (%)	Median number per council (in councils seizing only)	Base
Cigarette brands not for legitimate sale in the UK	75	10,148 sticks	95
Genuine non-UK duty paid cigarettes	67	8,498 sticks	
Counterfeit cigarettes	67	7,264 sticks	
Genuine non-UK duty paid hand-rolling tobacco	61	13 kgs	
Counterfeit hand-rolling tobacco	60	13 kgs	
Shisha	22	11 kgs	
Smokeless tobacco	17	8 kgs	
Raw tobacco	9	2 kgs	
Counterfeit tobacco packaging/pouches	9	23 packages/pouches	

Cigarette brands that are not for legitimate sale in the UK³⁶

Of the 75 councils³⁷ that stated that they had seized such products, the 3 brands that were most frequently reported being seized were:

- L&M (80% of councils)³⁸.
- Fest/Pect (71% of councils).
- NZ (56% of councils).

39% of councils stated other brands – 73 additional brands were mentioned – but no 1 brand was mentioned by more than 3 councils.

In comparison to 2015/16:

- Significantly more councils reported seizing L&M (81% compared to 18% of councils in 2015/16).
- Significantly more councils reported seizing Minsk (55% compared to 19% of councils in 2015/16).

³⁶ Councils were provided with an extended list of cigarettes brands not for legitimate sale in the UK in 2016/17, which should be considered when 2015/16 and 2016/17 are compared

³⁷ This is all councils stating they seized, not just those that could provide data on the seizure of all products

³⁸ L&M is not a brand that is available for legitimate sale in the UK and was included on the extended list for the first time in 2016/17. It is possible that if it had been included before 2016/17 it may have debuted in the most frequently seized in an earlier year





Figure 11: On average, what was the intended sales price for illicit cigarettes seized between 1 April 2016

UbX' '% AUfW\ '&\$%+3

Base: S6ase:





Community order and custodial sentences imposed by a Magistrates' Court

44 of the 45 councils that stated that their prosecutions had ended in either a business conviction or a conviction of an individual provided detail on whether community orders or custodial sentences had been imposed by a Magistrates' Court.

21 out of the 44 councils reported that a community order had been imposed; in total 45 community orders had been imposed with a median average of 2 per council.

9 out of the 44 councils reported that a custodial sentence had been imposed; in total 13 custodial sentences had been imposed with a median average of 1 per council.

14 councils reported that neither a community order nor a custodial sentence had been imposed.

Display and pricing of tobacco products

The Tobacco Advertising and Promotion (Display) (England) Regulations 2010⁴² and the Tobacco Advertising and Promotion (Display of Prices) (England) Regulations 2010⁴³ came into force for small business premises on the 6 April 2015; these Regulations have been in force for large businesses since 2012. This report provides an indication of compliance across both large and small businesses in 2016-17.

The purpose of these Regulations is to effectively prohibit the display of tobacco products at point of sale in all business premises. The way in which tobacco products appear in the retail environment has been further changed with the introduction of standardised packaging of tobacco products.

56% of all councils had undertaken tobacco control activities in relation to the display and pricing of tobacco products. Significantly fewer councils were undertaking work related to the display and pricing of tobacco products in 2016/17 compared to 2015/16 (56% in 2016/17 compared to 79% in 2015/16).

Compliance visits

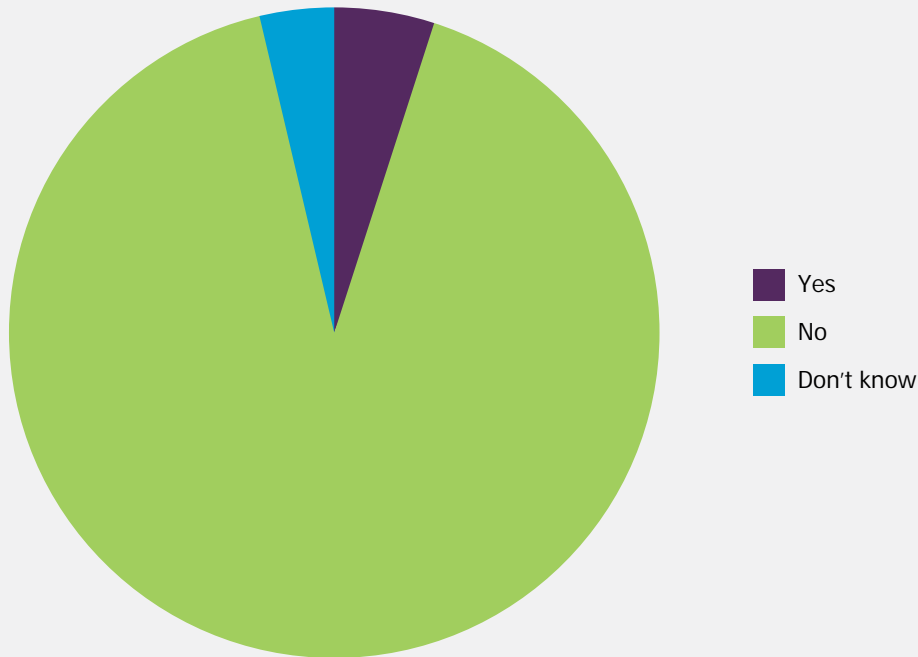
Of those councils that had undertaken tobacco control activities in relation to the display and pricing of tobacco products, 96% had carried out compliance visits at premises between 1 April 2016 and 31 March 2017. 2% had not, and 1% did not know.

42 Tobacco Advertising and Promotion (Display) (England) Regulations 2010 available at: <http://www.legislation.gov.uk/uksi/2010/445/contents/made> [accessed online 27 June 2016]

43 Tobacco Advertising and Promotion (Display of Prices) (England) Regulations 2010 available at: <http://www.legislation.gov.uk/uksi/2010/863/contents/made> [accessed online 27 June 2016]



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Base: All councils undertaking tobacco control activities in relation to advertising and the display of tobacco control products (81)

All 4 councils that had carried out compliance visits at wholesale/cash and carry businesses were able to provide detail of the outcome in relation to display requirements and pricing requirements.

- All 16 visits by councils in relation to display requirements were reported compliant.
- All 16 visits by councils in relation to pricing requirements were reported compliant.

Table 21: Please provide the number of visits to wholesale/cash and carry type businesses with each of the following outcomes

Outcome	Number of visits compliant	Median number per council (in councils taking action only)	Total number of visits
Compliance with display requirements	16	2	16
Compliance with pricing compliance	16	2	16

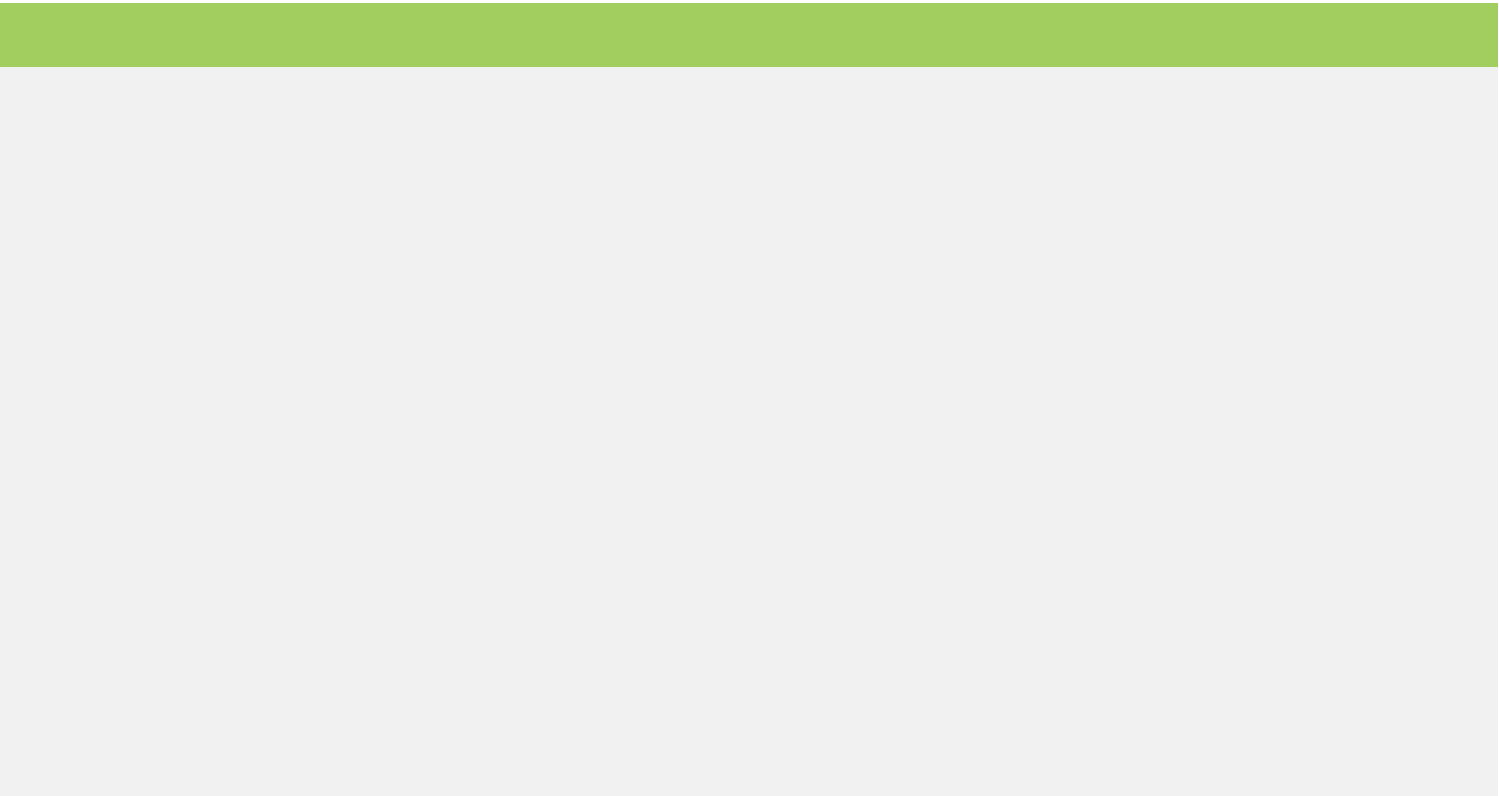
Actions taken in relation to the display and pricing of tobacco products

All councils that had undertaken activity in relation to the display and pricing of tobacco products were asked whether action had been taken as a result of a breach of the Tobacco Advertising and Promotion Act 2002 in the 2016/17 financial year. Of councils that had undertaken activity in relation to the display and pricing of tobacco products, 43% stated that action had been taken.

Respondents that had taken action were asked to provide detail on the types of actions that had been taken. Of those that had taken action, and could provide detail (33 out of 35 councils), verbal or written warnings were the most common type of action to be taken.









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Standardised Packaging of Tobacco Products Regulations 2015 (SPoT)





Article 5.3 of the Framework Convention on Tobacco Control

Article 5.3 of the World Health Organisation Framework Convention on Tobacco Control (FCTC) addresses the matter of the protection of public health policies with respect to tobacco control from the commercial and other vested interests of the tobacco industry⁴⁸.

The 'Local Government Declaration on Tobacco Control'⁴⁹ was launched in May 2013. The declaration commits signatories to:

"Protect our tobacco control strategies from the commercial and vested interests of the tobacco industry by not accepting any partnerships, payments, gifts and services, monetary or in kind or research funding offered by the

The following data seeks to explore the extent to which there are policies in place in councils and trading standards services addressing the principles of Article 5.3.

All councils were asked if their council had a written policy, in relation to Article 5.3 of the Framework Convention on Tobacco Control (FCTC).

Two fifths of councils (40%) stated that they did, with 21% stating that they did not, and a third (36%) stating that they did not know.

48 Guidelines for implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control Available at: http://www.who.int/fctc/guidelines/article_5_3.pdf [accessed online 2 May 2017]

49 Local Government Declaration on Tobacco Control available at <http://www.smokefreeaction.org.uk/localaction/declarations/index.html> [accessed online 2 May 2017]







Illicit tobacco products

In 2016/17 illicit tobacco control activity had broadly remained the same; findings of note include a statistically significant increase in the proportion of complaints and enquiries received about small retailers (from 37% to 49%).

Brands not for legitimate supply in the UK were the products most likely to be seized. Whilst in 2015/16 this was genuine non-UK duty paid cigarettes. However, the proportion of brands not for legitimate supply in the UK seized remained the same as in 2015/16 (75% of councils reporting seizing in both years). The list of cigarette brands not for



Illicit tobacco definitions

Description	Guidance
Brand not for legitimate supply in the UK	Any brand of tobacco product which fails to comply with relevant legislation enforced by trading standards, including cigarettes described as cheap whites (e.g. Jin Ling and Fest).
Counterfeit cigarettes	Product that is manufactured illegally and sold by a party other than the international trademark owner (e.g. 'Marlboro', 'Benson & Hedges').
Genuine non-UK-duty-paid cigarettes	Brands that have a legal, legitimate market in the UK but, however, have been smuggled into the country from another location without any or all of the required excise/tobacco duty having been paid.
Counterfeit hand-rolling tobacco	Product that is manufactured illegally and sold by a party other than the international trademark owner (e.g. 'Golden Virginia' and 'Amber Leaf').
Genuine non-UK-duty-paid hand-rolling tobacco	Brands that have a legal, legitimate market in the UK but, however, have been smuggled into the country from another location without the any or all of the required excise/tobacco duty having been paid.
Raw tobacco	Unprocessed, raw or 'loose leaf' tobacco that is smuggled into the UK for the purposes of processing into illicit tobacco products (e.g. in combination with counterfeit tobacco pouches).
Counterfeit tobacco packaging/pouches	Empty packaging and pouches that are manufactured illegally and sold by a party other than the international trademark owner (e.g. 'Marlboro', 'Benson & Hedges', 'Golden Virginia' and 'Amber Leaf').
Shisha	Refer to the Niche Tobacco Products Directory at: www.ntpd.org.uk
Smokeless tobacco	Refer to the Niche Tobacco Products Directory at: www.ntpd.org.uk
Other	Tobacco product for oral use (e.g. Makla Bouhel).



