

Communities Committee

Item No.

Report title:	Trading Standards Service Plan including Food & Feed Law Enforcement Plan (FFLEP) and Enforcement of Age Restricted Sales and Illegal Tobacco Plan (EARSITP)
Date of meeting:	7 March 2018
Responsible Chief Officer:	Tom McCabe, Executive Director, Community and Environmental Services
Strategic impact Caring for our County: <ul style="list-style-type: none">• Good growth: Building communities we can be proud of• Helping our population remain independent, resilient and well Building a safe, fair and legal marketplace for Norfolk; helping businesses succeed and safeguarding communities. <p>The Trading Standards Service Plan and associated plans set out the service priorities for 2018-19, taking account of the service budget set in February 2018.</p> <p>The purpose of this report is to present recommendations to Committee on the proposed priorities for 2018-19 for consideration and approval.</p> <p>In addition this report is necessary to enable the Committee to determine how the County Council will discharge its new functions under the Environmental Protection (Microbeads) (England) Regulations 2017 which are designed to prevent environmental pollution and harm to the health of animals.</p>	

Executive summary

<p>This report introduces the Trading Standards Service Plan 2018-19 (Appendix 1) including:</p> <ul style="list-style-type: none">• Annex I: The Enforcement of Age Restricted Sales and Illegal Tobacco Plan (EARSITP) (Appendix 2 to this report) and• Annex II: The Food and Feed Law Enforcement Plan (FFLEP) (Appendix 3 to this report). <p>All three need to be adopted by the Communities Committee.</p> <p>Recommendations:</p> <p>Members are asked to:</p> <ul style="list-style-type: none">• Review the Trading Standards Service Plan including Annexes I and II and adopt the plan.• Delegate the functions of the regulator for the purposes of the Environmental Protection (Microbeads) (England) Regulations 2017 to the Head of Trading Standards.
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1. Proposal

1.1. The Trading Standards Service's vision is to build a safe, fair and legal marketplace for Norfolk, helping businesses succeed and safeguarding communities. Our three outcomes and priorities are:

- **Enabling** economic growth by providing support for businesses and ensuring a level playing field by tackling the most serious illegal trading
- **Safeguarding** communities and vulnerable people by engaging with communities and businesses to build resilience to scams and rogue traders
- **Protecting** public safety, health and well-being and ensuring trading is legal, honest and fair.

1.2. Our vision and priorities accord with the County Council's vision for Norfolk: Caring for our County, in particular:

- Good growth: Building communities we can be proud of: Ensuring Norfolk's economic growth can benefit everyone
- Starting a new relationship with Norfolk families: Helping people to live independent, productive lives where they are healthy, happy and with good access to opportunities
- Helping our population remain independent, resilient and well: Focusing on helping vulnerable adults to live independently

and contribute to and/or are supported by the **Norfolk Futures** strategic priorities of:

- Promoting independence for vulnerable adults: giving people the skills and confidence to live independently and safely, in their own homes, for as long as possible.
- Smarter information and advice: making it easier for people to find trusted, reliable information to make decisions that improve their independence and well-being
- Digital Norfolk: using technological solutions, to provide smarter ways of working and reduce costs within the Council and in frontline services
- Local service strategy: proactively targeting our services in the places where they are most needed
- Commercialisation: improving the return on existing assets and implementing a more business-like approach to managing our services.

1.3. Trading Standards has an important role in protecting the integrity of the food chain from farmed animal welfare and disease control to food safety and standards. The Service also ensures goods are safe and trading is fair and tackles underage and illegal sales of alcohol and tobacco. Activities in these areas also contribute to Public Health priorities.

The Service investigates criminal offences and civil breaches and takes legal action where necessary to protect individuals, in particular the vulnerable, as well as wider legitimate public and economic interests. Trading Standards therefore has an important social and economic role in the community, contributing to the health, safety and economic growth of Norfolk.

1.4. The Trading Standards Service plan has been developed using analysis of information (intelligence) that reflects the issues and problems Norfolk people and businesses face, ensuring that our service is unique and focused on the needs of the County. This includes providing part of the 'national shield' addressing both national issues that affect Norfolk and the impact of local businesses nationally and globally.

The service plan includes our 'plan on a page (page 8) which summarises our strategic control strategy and focus for protecting the public and legitimate business. The plan is supplemented with functional specific plans which describe how we will address statutory responsibilities relating to underage sales (Annex I), food and animal feed safety and standards (Annex II), and farmed animal health, welfare and disease control (Annex III). These specific plans include information required by Government on the monitoring of our discharge of these functions.

1.5. **Members are asked to review the Trading Standards Service Plan including Annexes I and II and it is recommended that the Committee adopts the plan.**

1.6 The 'regulator' for the purposes of the enforcement of offences under the Environmental Protection (Microbeads) (England) Regulations 2017 is, in relation to any place at which a rinse-off personal care product is manufactured or supplied, the local authority with responsibility for the area in which the place is situated; and for Norfolk is the county council.

1.7 Regulation 6 enables the regulator to authorise any person to exercise, for an authorised purpose and in accordance with the terms of the authorisation, any of the powers specified in regulation 8, if that person appears to the regulator suitable to exercise them.

1.8 **It is recommended that the committee delegates the functions of the regulator for the purposes of the Regulations to the Head of Trading Standards.**

2. Evidence

2.1. The Trading Standards Service Plan (Appendix 1) includes, and attention is drawn to:

- Annex I: The Enforcement of Age Restricted Sales and Illegal Tobacco Plan (EARSITP) (Appendix 2)
- Annex II: The Food and Feed Law Enforcement Plan (Appendix 3)

2.2. The Enforcement of Age Restricted Sales and Illegal Tobacco Plan (EARSITP) enables the County Council to discharge its statutory duty to annually consider and review its enforcement of the Children and Young Persons (Protection from Tobacco) Act 1991.

2.3. The Food and Feed Law Enforcement Plan (FFLEP) is a statutory plan required by the Food Standards Agency; which incorporates work that is intended to protect the food supply chain, covering both food production and control of animal feed used for animals intended for human consumption.

2.4. The Environmental Protection (Microbeads) (England) Regulations 2017 came into force on 9 January 2018.

2.5. It is an offence for any person to manufacture any rinse-off personal care product using microbeads as an ingredient and, with effect from 19 June 2018, it will be an offence for any person to supply or offer to supply such products.

2.6. Regulators are afforded specific powers of entry, examination, investigation and sampling for analysis or testing to enable them to enforce the provisions of the Regulations, which mirror existing powers familiar to Trading Standards Officers. Where offences are committed, regulators may impose variable monetary penalties or compliance notices, having previously issued notice of intent. Regulators may also issue stop notices or enforcement undertakings.

2.7. The regulator has to publish a report; specifying the cases in which a civil sanction has been imposed and where a variable monetary penalty or

compliance notice has been accepted or an enforcement undertaking has been entered into.

The regulator also has to publish guidance about its use of civil sanctions under the Regulations. This can be achieved through guidance posted alongside the current CES Enforcement Policy on the Trading Standards pages of the NCC website.

- 2.8. Given the powers and duties placed on the regulator, the Trading Standards Service is best placed within the County Council to execute those powers and fulfil those duties, given their familiarity with similar enforcement regimes. The Service also holds business data and collates intelligence pertinent to enforcement of the Regulations.

3. Financial Implications

- 3.1. The financial implications of service delivery aligned to the Trading Standards Service Plan 2018-19 and associated policies and plans accord with the budget agreed by Full Council.
- 3.2. Any enforcement required by virtue of the Environmental Protection (Microbeads) (England) Regulations 2017 will be conducted by Trading Standards Officers alongside current enforcement duties.
- 3.3. Regulators are able to recover the costs of enforcement under the Regulations in the case of variable monetary penalties, compliance notices and stop notices.

4. Issues, risks and innovation

The key issues that need to be taken into account are:

4.1. Staff

Sufficient suitably qualified and competent officers are required to undertake enforcement activities, including the use of statutory powers. The Trading Standards Service operates a workforce and career development plan to maintain a complement of qualified and competent officers. Skills and competency are assessed during annual staff appraisals and a programme of Diploma in Consumer Affairs and Trading Standards (DCATS) qualification and continuous professional development is implemented to ensure the maintenance of essential knowledge and skills.

During 2016/17 and 2017/18 a performance measure was used to ensure that the Trading Standards Management Team was able to assess, on a four-monthly basis, the levels of qualifications and competencies across 14 enforcement areas and, where shortfalls were identified, take the necessary actions to ensure the Service has the required number of qualified and competent officers in place. This process is now embedded within the Service.

4.2. Legal implications including the Crime and Disorder Act 1998, human rights implications, the General Data Protection Regulation 2016, the Police and Criminal Justice Data Protection Directive 2016 and health & safety

Statutory duties are addressed in the Trading Standards Service Plan 2018-19 and associated plans.

The Trading Standards Service is principally concerned with preventing or reducing crime and disorder. Enforcement activities are determined via our intelligence-led approach and enforcement action is undertaken in accordance with the CES Enforcement Policy.

Enforcement activities occasionally necessitate the use of covert surveillance or access to communications data, as regulated by the Regulation of Investigatory Powers Act 2000 (RIPA). The Service complies with the Act and the County Council's RIPA policy when considering the necessity and proportionality of such activities.

The Service will have regard to corporate data protection policies and procedures and Service-specific policies in relation to data protection where it differs in a criminal justice context.

The Service follows the County Council's Health & Safety – Our Commitments policy and associated corporate policies. Service-specific activities such as metrological inspections or potentially confrontational situations are managed through a comprehensive set of risk assessments, which are reviewed on an annual basis as part of our Health & Safety Action Plan.

- 4.3. Delegation of the new functions arising from the 2017 Regulation to the Head of Trading Standards is being sought further to advice provided by nplaw.

4.4. **Risks**

A key risk in relation to staffing within the Service have been identified: The Food Standards Agency, through its “Regulating our Future” Review and Strategic redesign, has determined that the current model for ensuring food is safe and as described is not meeting their expectations. The role for local authorities in any proposed new delivery model is not yet clear but could result in a major change in responsibilities for the Service.

Actions to mitigate the risk are currently being monitored and managed via the Trading Standards Risk Register.

Other risks associated with service delivery aligned to the Trading Standards Service Plan 2018-19 and associated plans are considered during service planning and the more detailed control strategy planning that underpins it. Identified risks are managed as part of the Service risk management process.

4.5. **Innovations**

During 2018/19 the Trading Standards Service intends to explore with Members a potential Norfolk Against Scams Partnership (NASP) to improve community resilience to scams. We will be seeking to recruit NCC Members and staff and partner organisations to the partnership to take a stand against scams.

5. Background

- 5.1. Appendix 4 - Annex III: Animal Health & Welfare Service Delivery Plan.

Officer Contact

If you have any questions about matters contained in this paper or want to see copies of any assessments, eg equality impact assessment, please get in touch with:

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