



Chartered Trading  
Standards Institute

# TOBACCO CONTROL SURVEY, ENGLAND 2018/19

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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 2018 to March 2019.

An online survey was emailed to all councils undertaking tobacco control activities in England in April 2019 (151 councils in total). The deadline for completion of the survey was Tuesday 14 May 2019. The survey was completed by 129 councils, which is a response rate of 85%. Although this response rate is high, the base for some findings does vary as not every respondent answered every question.

## Introduction

This is the seventh *Tobacco Control Survey* report produced by the Chartered Trading Standards Institute (CTSI). It presents the findings of a survey of tobacco control activities carried out by trading standards services between April 2018 and March 2019.

The survey has been supported by the Department of Health and Social Care (DHSC) and includes questions made at the request of HM Revenue and Customs (HMRC) in relation to the nature of the illicit tobacco market at the local level in England.

The core areas of trading standards activity remain largely those associated with the enforcement of tobacco control legislation, namely:

- Testing the supply of both tobacco and nicotine inhaling products to young people under the age of 18 by the conduct of test purchase operations with underage young persons at retail premises.
- Tackling the supply of illicit tobacco products i.e. brands that are not for legitimate supply in the UK, counterfeit/smuggled tobacco products.
- Monitoring business compliance with the display and pricing of tobacco product regulations.
- Assessment of compliance with the Tobacco and Related Products Regulations 2016 and the Standardised Packaging of Tobacco Products Regulations 2015 (SPoT) across a variety of business settings.

In addition, this year respondents have been asked to comment on the effectiveness of sanctions applied where breaches of the legislation have been reported for legal action.

Whilst this survey presents data for English councils, it should be noted that there are a number of joint services now operating i.e. two or more council areas with one trading standards service. Where this structure exists, data has been requested for each separate council area.

## Context

The most recent data for adult smoking habits in the UK (2018, published by the Office for National Statistics<sup>1</sup>) reveals that in England, 14.4% of adults (5.9 million people) smoke. This represents a statistically significant decline from 2011 when smoking prevalence was 19.8%.

To continue this downward trend in smoking prevalence, the DHSC published a five-year plan *Towards a Smokefree Generation: a Tobacco Control Plan for England*<sup>2</sup> in 2017.

1. *Adult Smoking Habits in the UK: 2018* (2019) available at: <https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/healthandlifeexpectancies/bulletins/adultsmokinghabitsingreatbritain/2018#the-proportion-who-are-current-smokers-in-the-uk-its-constituent-countries-and-local-areas-2011-to-2018> [accessed online 4 July 2019]

2. *Towards a Smokefree Generation: a Tobacco Control Plan for England* (2017) available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/630217/Towards\\_a\\_Smoke\\_free\\_Generation\\_-\\_A\\_Tobacco\\_Control\\_Plan\\_for\\_England\\_2017-2022\\_\\_2\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/630217/Towards_a_Smoke_free_Generation_-_A_Tobacco_Control_Plan_for_England_2017-2022__2_.pdf) [accessed online 10 June 2019]

This plan describes the overall vision of the Government and the ambitions designed to deliver it:

...create a smokefree generation. We will have achieved this when smoking prevalence is at 5% or below. To deliver this, the Government sets out the following national ambitions which will help focus tobacco control across the whole system:



**1. The first smokefree generation...**



**2. A smokefree pregnancy for all...**



**3. Parity of esteem for those with mental health conditions...**



**4. Backing evidence-based innovations to support quitting.**

Tobacco control remains an area of activity for local trading standards services; it is seen as a priority area of activity by almost three quarters of responding councils. Trading standards is responsible for the enforcement of much of the tobacco control legislation in the UK; however, this responsibility is set against the backdrop of reductions in staffing levels and financial resources for trading standards.

*The Workforce Survey 2017*<sup>3</sup>, commissioned and published by CTSI, reported that:

- "There has been a further 4.3% fall in average spending on trading standards.
- Long term budget analysis confirms that there has been a 50% fall in actual trading standards spending in the last seven years.
- 43% of services report that they cannot deal with the consumer detriment in their area.
- 64% feel they cannot recruit or retain skills."

This survey provides a unique collection of data illustrating the enforcement activities that have been undertaken during the last 12 months by these local services, despite the pressures indicated by the *Workforce Survey*.

## Methodology

The 2018/19 survey questionnaire was developed jointly by the DHSC and CTSI.

Tobacco control lead officers within councils were advised of the survey in advance to increase the response rate. Towards the end of the survey period, trading standards services that had not completed the survey were contacted individually and encouraged to do so.

The link to the 2018/19 online questionnaire was emailed to councils on 3 April 2019, and by the end of fieldwork on 14 May 2019 it had been completed by 129 councils, which is a response rate of 85%. Although the vast majority of councils responded, the base does vary, as not every respondent answered every question.

3. Chartered Trading Standards Institute *Workforce Survey 2017* available at: <https://www.tradingstandards.uk/media/documents/news--policy/surveys/ctsi-workforce-survey-2017.pdf> [accessed online 10 June 2019]





The table below shows the response rate to the survey by region.

Region	Total number in region	Number of respondents	Response rate (%)
East of England	11	11	100%
East Midlands	9	7	78%
London	33	16	48%
North East	12	11	92%
North West	23	23	100%
South East	19	19	100%
South West	15	15	100%
West Midlands	14	13	93%
Yorkshire & Humber	15	14	93%
<b>Total</b>	<b>151</b>	<b>129</b>	<b>85%</b>

All figures provided in the main report are with reference to tobacco control activity conducted in England between 1 April 2018 and 31 March 2019, unless otherwise stated.

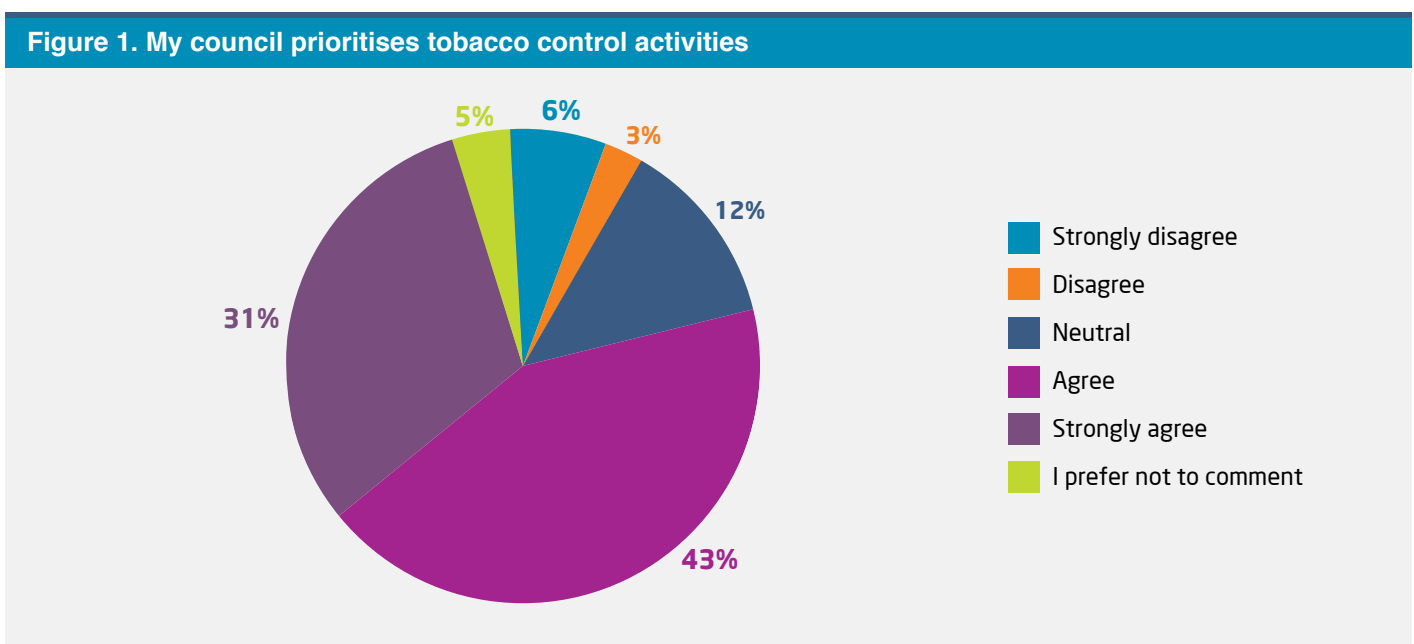
Figures are reported as a percentage of the total number of respondents to this survey (129), unless otherwise stated.

Throughout the report some tables and figures may not sum to 100% due to rounding. All percentages included in the report have been rounded to the nearest whole percentage.

Where figures are grossed for England, calculations have been made on the basis that those answering would be representative of non-responding councils throughout England. Please note that non-responding councils include those that stated that they did not know. Grossed figures have been rounded to the nearest 100, unless otherwise stated.

### Priority given to tobacco control

Respondents were asked if, in their opinion, their council prioritises tobacco control activity. 43% said that they agreed with this statement, with 31% saying they strongly agreed.



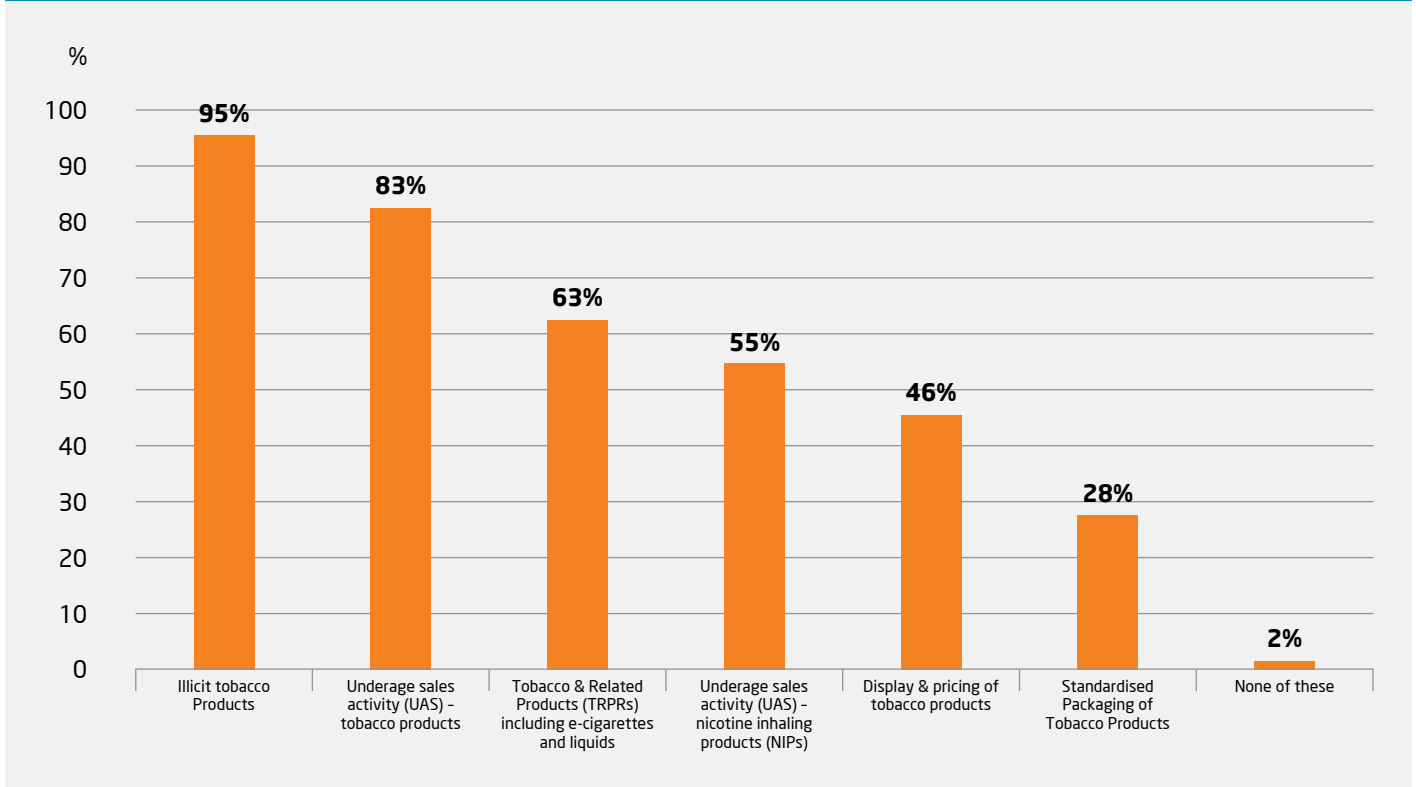
## Tobacco control activities

Respondents were asked which core tobacco control activities (from a list of seven) their council undertook in the financial year 2018/19.

98% of councils undertook at least one type of activity. Two councils replied no to all the activities outlined.

The activity most frequently undertaken was work related to illicit tobacco products (95%), with the least common activity (28%) being activities in relation to SPoT.

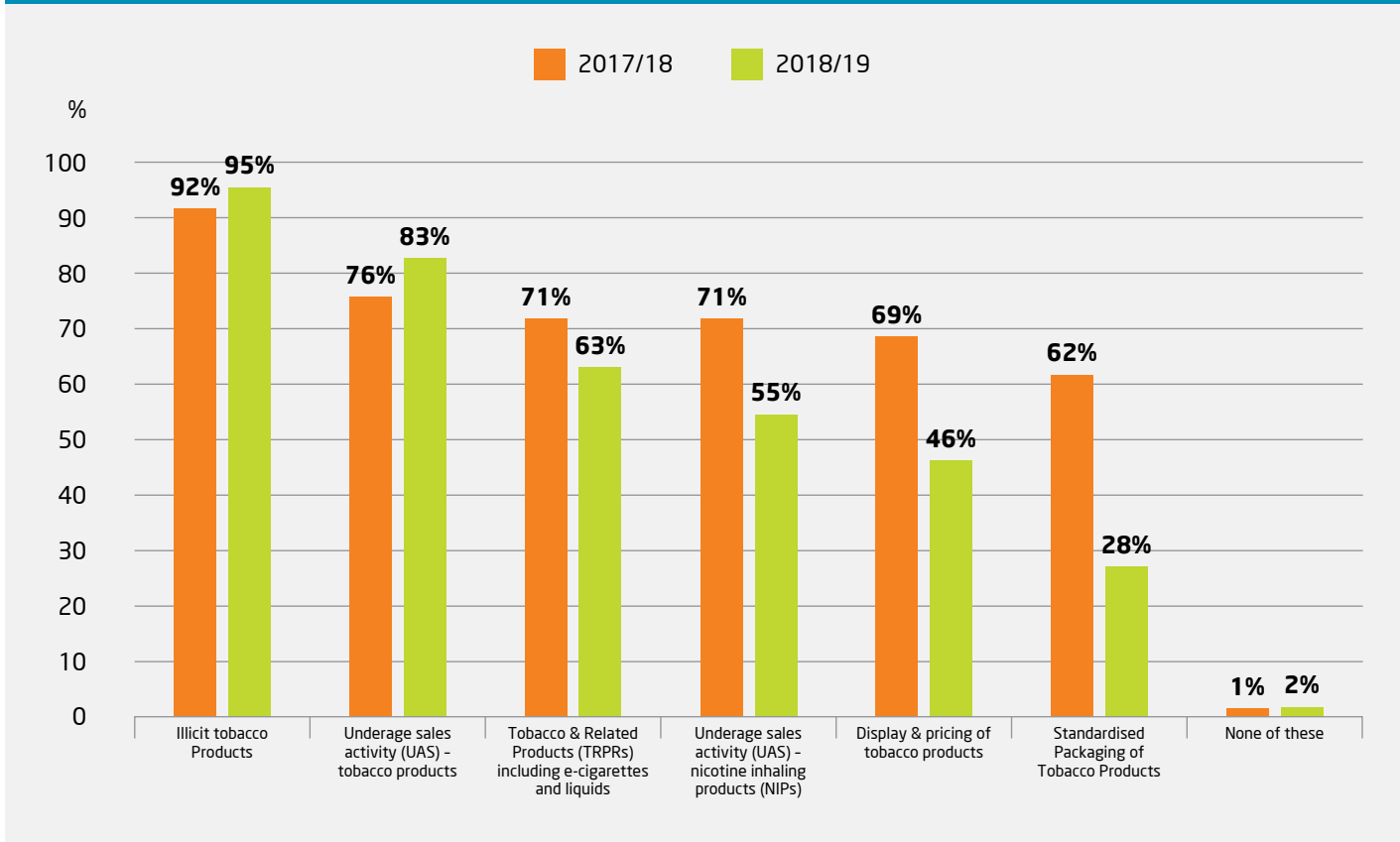
Figure 2. Tobacco control activities



Apart from activities relating to Illicit tobacco products and underage sales activities (related to tobacco products), which have shown a slight increase from the previous survey, there has been a large reduction in activities undertaken across the other categories. Most notably a significant reduction from 62% to 28% in councils undertaking activities relating to Standardised Packaging of Tobacco Products.



Figure 3. Tobacco control activities 2017/18 vs 2018/19



## Underage sales

This section of the report details activities undertaken in relation to the supply of tobacco and nicotine inhaling products to young people under the age of 18.

There is a commitment by the Government to reduce the prevalence of 15-year-olds who regularly smoke to 3% or less by the end of 2022<sup>4</sup>. This is an ambitious target given that 12% of boys and 18% of girls aged 15 describe themselves as current smokers.

It is illegal to supply cigarettes to young people under the age of 18; however, when questioned, 38% of regular smokers (young) stated that they obtained their cigarettes from shops with 43% stating they have been given the cigarettes by friends<sup>5</sup>. 28% of young people surveyed state that they found it difficult to obtain their cigarettes from shops; this suggests that of those that smoke regularly, 72% of respondents did not find it difficult. The supply of tobacco to an under 18-year-old is a criminal offence.

In the recently published report from Public Health England (PHE), *Vaping in England: Evidence update summary February 2019*<sup>6</sup>, it is stated that "whilst regular use of E cigarettes remains low, in England and Great Britain as a whole, experimentation with the products has steadily increased in recent years."

This is further supported by studies from outside of the UK that "suggest a similar picture, with increasing experimentation and use of E Cigarettes over time among youth. There is evidence from the US that increasing vaping is happening against a backdrop of reducing cigarette smoking."

4. DHSC Op.Cit

5. Statistics on Smoking: England 2018 available at: <https://digital.nhs.uk/data-and-information/publications/statistical/statistics-on-smoking/statistics-on-smoking-england-2018/part-5-availability-and-affordability-of-tobacco> [accessed online 6 August 2019]

6. Vaping in England: Evidence update summary February 2019 available at: <https://www.gov.uk/government/publications/vaping-in-england-an-evidence-update-february-2019/vaping-in-england-evidence-update-summary-february-2019> [accessed online 12 June 2019]



The prevention and detection of illegal sales of nicotine inhaling products to young people remains an area of concern for trading standards.

PHE recommends that "*surveillance is needed on purchase sources by young people*"

Note: at the time of writing this report *Smoking, Drinking and Drug Use Among Young People in England 2018* has yet to be published.

## Tobacco products

**83% of all councils conducted activities in relation to underage sales; an increase of 7% over the results of last year.**

## Complaints and enquiries received

94% of all councils reported they had dealt with complaints and enquiries in relation to underage sales at premises. Where respondents were able to provide detail (102 councils), they received a total of 815 complaints and enquiries associated with 691 premises. Only six councils stated that they had received zero complaints; the maximum received by a single council was 54.

If this figure is used as an indication of the likely picture in non-responding councils, this would mean an estimated total of around 1,200 complaints and enquiries about underage sales from retail premises were received in England in 2018/19.

## Complaints and enquiries received by premises type

Councils were asked to provide a breakdown of the complaints and enquiries received by premises type. Analysis has only been conducted where councils received complaints and enquiries and were able to provide an accurate breakdown across all premises types; 96 out of 102 councils were able to provide this detail.

In total 815 complaints and enquiries were received by these councils, with the largest proportion being received about convenience stores/grocers (60%), followed by off-licences (22%); the smallest proportion were received about pubs and clubs (1%).

**Table 2. Underage sales: tobacco – complaints and enquiries**

Type of premises	Complaints and enquiries received (%)
Large retailer	2%
Convenience store/grocer	60%
National newsagent	0%
Independent newsagent	13%
Off-licence	22%
Petrol station kiosk	0%
Market/car boot sale	0%
Pub/club	1%
Private homes	2%

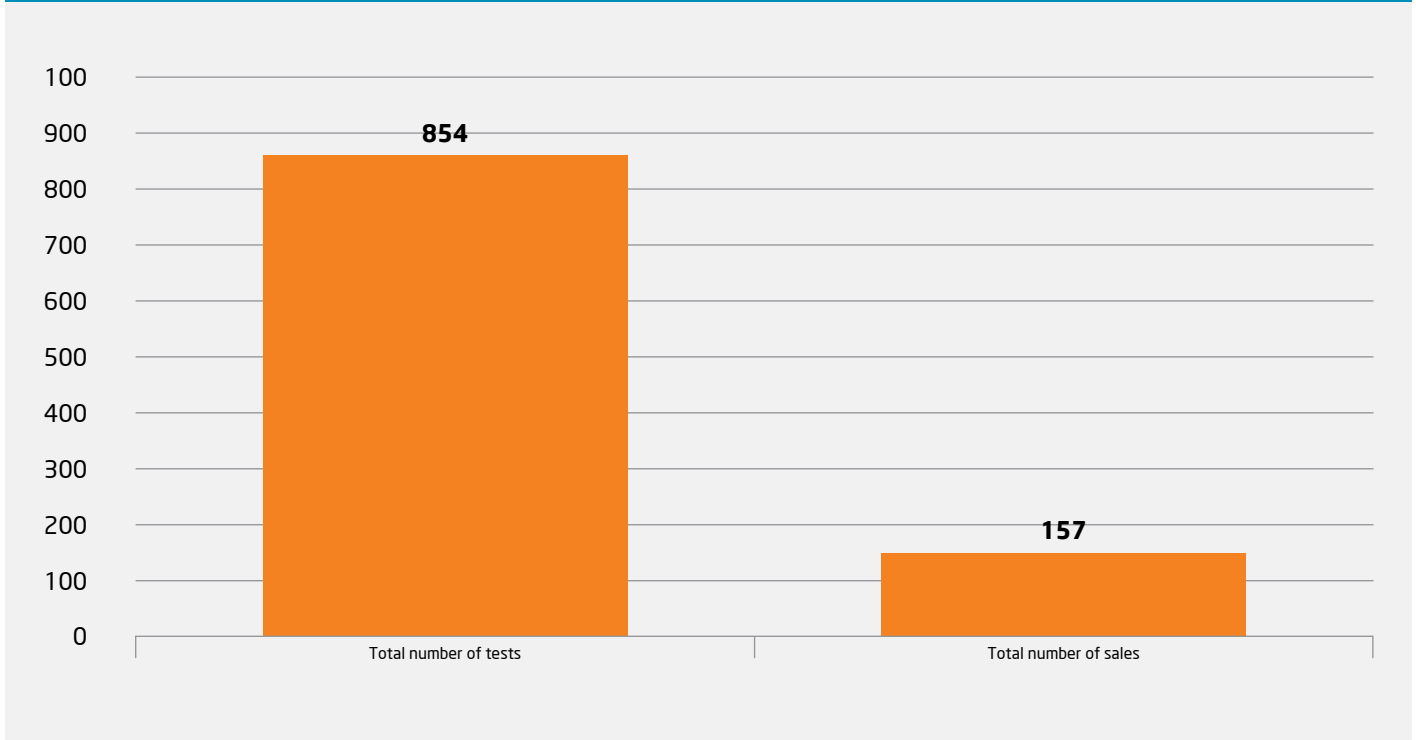


## Test purchase operations for tobacco

66% of all councils carried out at least one test purchase operation for tobacco at retail 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 chart below provides a summary of the number of test purchase operations and illegal sales made at retail premises.

**Figure 4. Underage sales: tobacco – number of test purchase operations and sales made**



All 67 councils that conducted visits to premises with volunteer young persons supplied the number of premises visited; this was a total of 854.

If this figure is used as an indication of the likely picture in non-responding councils, this would mean an estimated total of around 1,300 premises across England were visited by volunteer young persons in the conduct of test purchase operations in 2018/19.

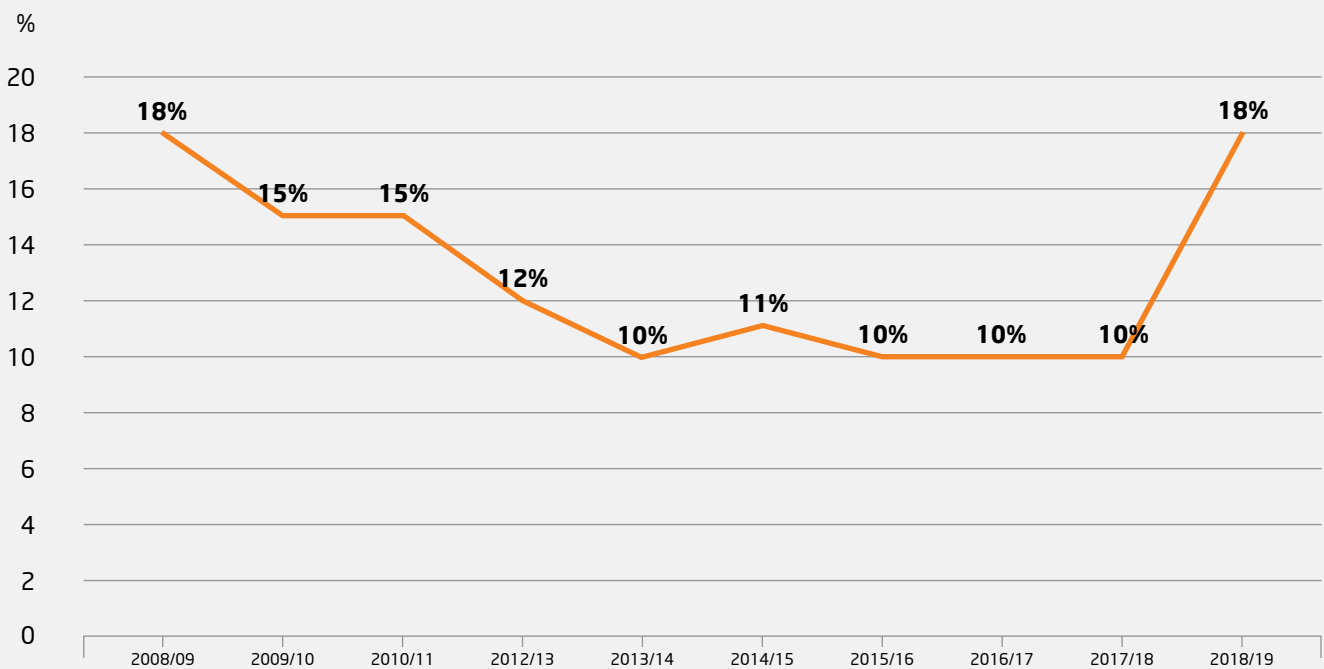
## Number of tests made at premises resulting in illegal sales

All 67 councils were also able to report the number of visits with volunteer young people where sales had occurred. 18% of test purchase attempts resulted in the sale of cigarettes or tobacco products. Where a sale did take place to underage persons in 2018/19, they were sold at a median of three premises and a total of 157 premises.

If this figure is used as an indication of the likely picture in non-responding councils, this would mean an estimated total of around 200 premises across England were detected making illegal sales of tobacco products to underage young persons in 2018/19.

This is an increase of 8% from 2017/18 and is the highest since 2008/09.

**Figure 5. Underage sales: tobacco – percentage of visits resulting in illegal sales**



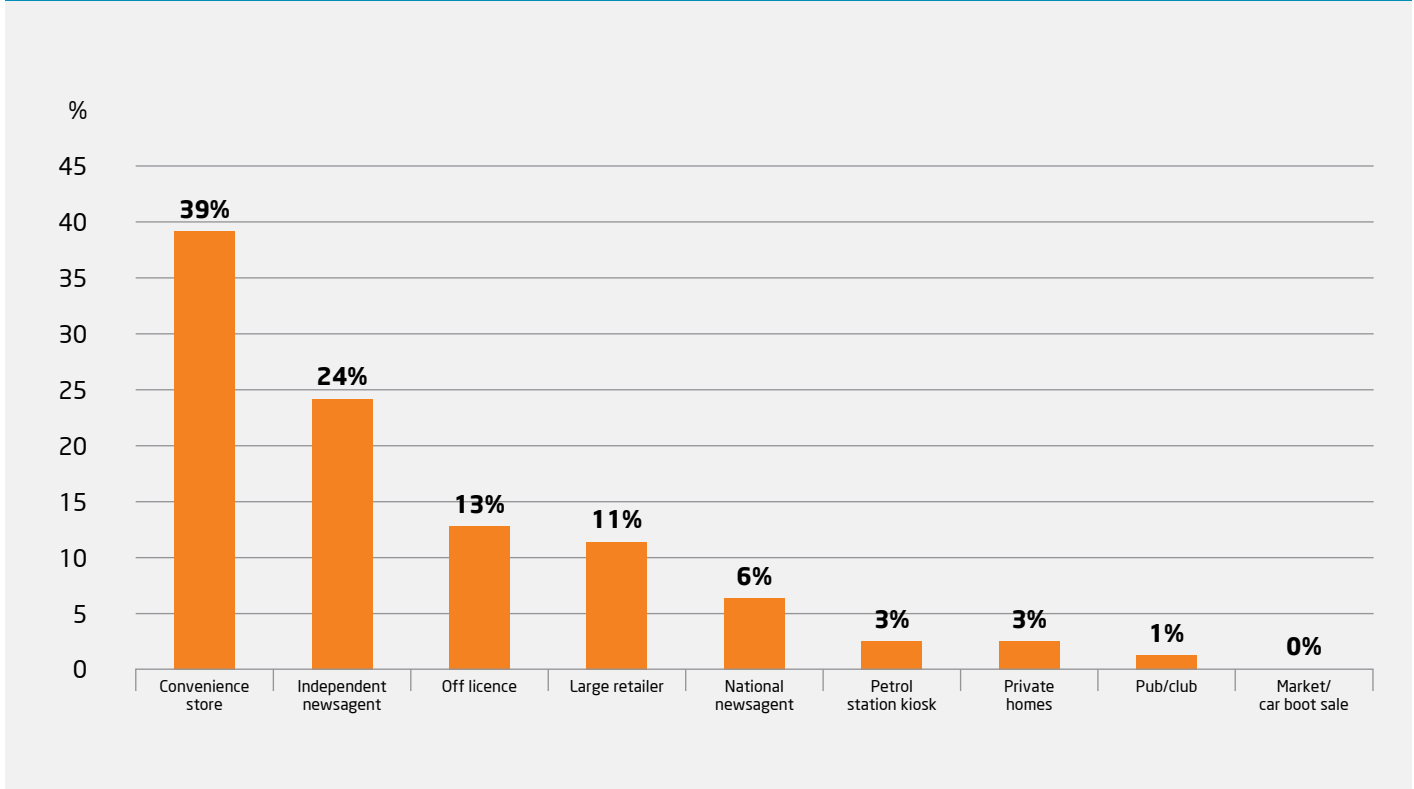
*Total number of visits made in 2008/09 (4,679); total number of visits made in 2009/2010 (5,240); total number of visits made in 2010/2011 (6,955); total number of visits made in 2012/2013 (4,381); total number of visits made in 2013/2014 (2,880), total number of visits made in 2014/2015 (2,838), total number of visits made in 2015/16 (2,275), total number of visits made in 2016/17(2,155), total number of visits made in 2017/18 (1,716), total number of visits made in 2018/19 (854)*



## Type of premises

Councils were asked to provide the number of illegal sales made at the top three premises types that generated the most illegal sales. Convenience store/grocer appeared the most in the top three list, with 58 illegal sales being reported. Independent newsagent was the second most common, with 43 illegal sales being reported. While off-licence was the third most common, with 17 sales being reported.

**Figure 6. Underage sales: tobacco – type of premises that generated the most illegal sales**



## Nicotine inhaling products (NIPs)

**55% of all councils conducted activities in relation to underage sales for NIPs.**

## Complaints and enquiries received

67 out of the 68 councils conducting activities in relation to underage sales for NIPs could provide detail on the complaints and enquiries received about them.

79% of all councils reported dealing with complaints and enquiries in relation to underage sales for NIPs; where respondents were able to provide detail, they received a total of 210 complaints and enquiries relating to 154 premises.

## Complaints and enquiries received by premises type

Councils were asked to provide a breakdown of the complaints and enquiries received by premises type.

Of the 210 complaints and enquiries received, councils were asked which premises type generated the greatest number of complaints. The highest ranked were specialist e-cigarette suppliers (55%), followed by independent newsagents (16%); no complaints or enquiries were received about national pharmacy chains or independent pharmacies.

**Table 3. Underage sales: nicotine inhaling products – complaints and enquiries**

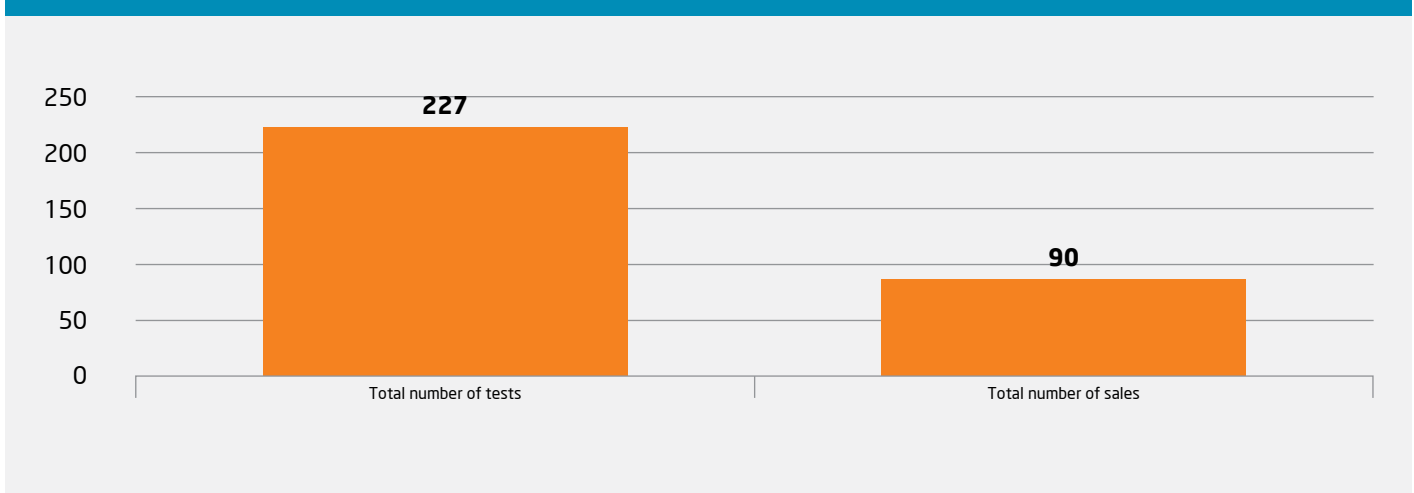
Type of premises	Generated the most complaints
Specialist e-cigarette supplier	55%
Large retailer	4%
Convenience store/grocer	9%
National newsagent	2%
Independent newsagent	11%
Pharmacy national chain	0%
Pharmacy independent	0%
Market stall/car boot sale	4%
Discount shop	4%
Petrol station kiosk	2%
Mobile phone shop	8%
Online retailer	2%

## Test purchase operations for nicotine inhaling products

51% of all councils carried out test purchase operations with volunteer young persons for NIPs. This was significantly more than the 32% of councils that carried out test purchase operations with young persons for NIPs in 2017/18.

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 sales of NIPs made at retail premises.

**Figure 7. Underage sales: nicotine inhaling products – total number of test purchase operations and sales made**





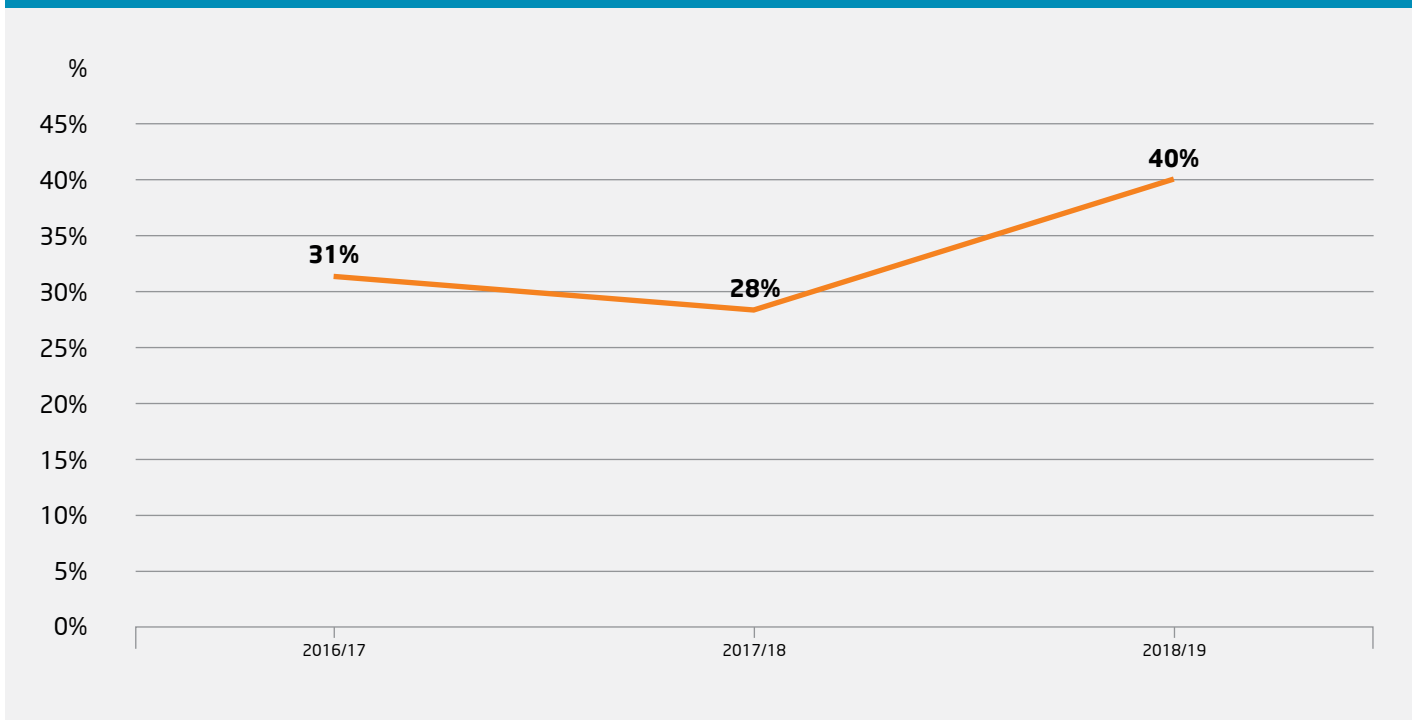
All 34 councils that conducted visits to premises with volunteer young persons supplied the number of premises visited; this was a total of 227.

If this figure is used as an indication of the likely picture in non-responding councils, this would mean an estimated total of around 300 premises across England were visited by volunteer young persons in the conduct of test purchase operations in 2018/19.

## Proportion of visits to premises resulting in illegal sales

All 34 councils were able to report the number of visits with volunteer young people where sales had occurred. 90 test purchase attempts resulted in an underage sale being made. This results in a 40% test-purchase-to-sale rate, which is significantly higher than last year at 28%.

**Figure 8. Underage sales: nicotine Inhaling products – percentage of visits resulting in illegal sales**



## Type of premises

Councils were asked to state the top three premises types that generated the most illegal sales to young people during test purchase operations. Specialist e-cigarette supplier appeared the most in the top three list, with 47 illegal sales being reported. Discount shops were the second most common, with 11 illegal sales being reported. While market/car boot sale was the third most common with eight sales being reported. There were no reported illegal sales made from national newsagents, pharmacies or online retailers.

## Illicit tobacco products

**95% of all councils conducted activities in relation to illicit tobacco products.**



Trading standards services continue to play a key role within their communities and across their regions in tackling the supply of illicit tobacco. This activity remains the most frequently reported by respondents to this survey.

Data produced by HMRC in *Measuring Tax Gaps 2019 edition*<sup>7</sup> summarises the position as follows:

"The tobacco tax gap is driven by the illicit market in cigarettes and hand-rolling tobacco and is estimated to be £1.8 billion in 2017-18. An estimated total of £1.4 billion has been lost in tobacco duties and a further £0.4 billion in VAT. The cigarette tax gap is estimated to be £1 billion and the hand-rolling tobacco tax gap is estimated to be £0.8 billion in 2017-18."

In terms of market share, the illicit market in cigarettes is estimated at 9% in 2017-18, reduced from 15% in 2016-17. Whereas the hand-rolling tobacco illicit market is estimated at 32%, an increase from 27% in 2016-17.

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. The provision of data relating to illicit brands seized at local level enhances the intelligence picture available to HMRC.

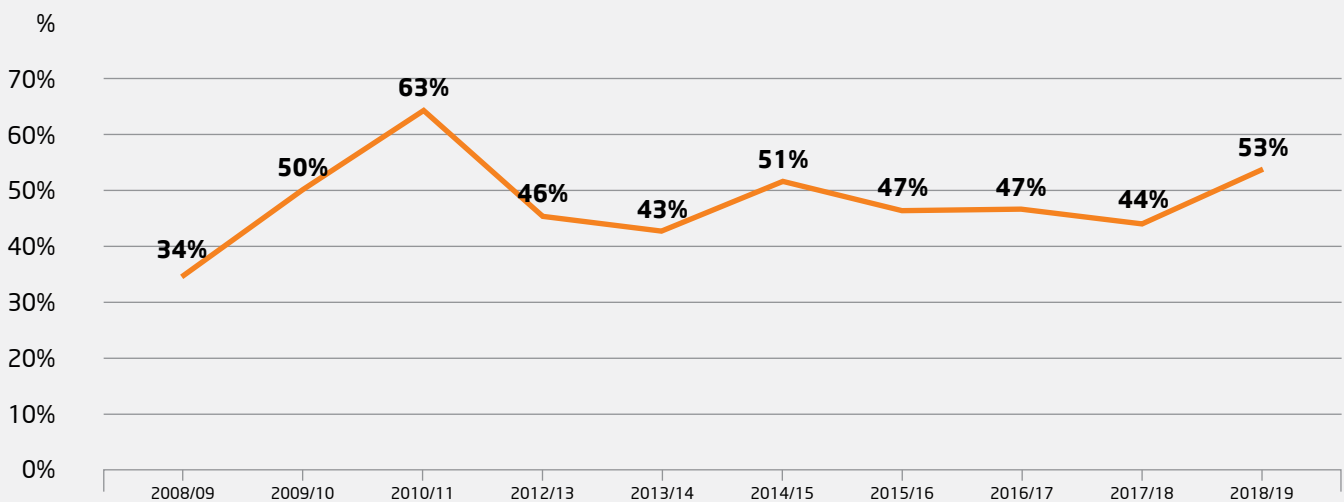
## Regional strategies for illicit tobacco

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

## Illicit tobacco control activities with HMRC

53% of all councils undertook joint operations with HMRC as part of their activity in relation to illicit tobacco products.

**Figure 9. Joint operations with HMRC**



Base: Year 2008/09 (101), Year 2009/10 (124), Year 2010/11 (131), Year 2012/13 (146), Year 2013/14 (148), Year 2014/15 (150), Year 2015/16 (148), 2016/17 (145), 2017/18 (143), 2018/19 (116).

7. *Measuring Tax Gaps 2019 edition* available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/810818/Measuring\\_tax\\_gaps\\_2019\\_edition.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810818/Measuring_tax_gaps_2019_edition.pdf) accessed online 25 June 2019



## Complaints and enquiries

117 out of 129 councils that undertook activities in relation to illicit tobacco were able to provide detail on the number of complaints and enquiries received. 93% of all councils had dealt with complaints and enquiries in relation to the supply of illicit tobacco products.

In total 3,977 complaints and enquiries were received, with a median average of 18 per authority. If this figure is used as an indication of the likely picture in non-responding councils, this would mean an estimated total of around 4,600 complaints and enquiries about illicit tobacco products were received in England in 2018/19.

## Complaints and enquiries received by premises type

Councils were asked to provide a breakdown of the complaints and enquiries received 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; 105 councils that undertook visits were able to provide this detail.

In total 3,977 complaints and enquiries were received by these councils, with the largest proportion of complaints and enquiries being received about small retailers (49%), followed by private homes (15%); the smallest proportion were received about petrol station kiosks and national newsagents (<0.5% for each).

**Table 4. Illicit tobacco: complaints and enquiries**

Type of premises	Complaints and enquiries received (%)
Large retailer	1%
Small retailer	49%
National newsagent	0%
Independent newsagent	8%
Off-licence	10%
Petrol station kiosk	0%
Market/car boot sale	1%
Pub/club	3%
Private homes	15%
Other (please specify)	13%

Examples of other premises include:

- Takeaway kiosk
- Barbers
- Taxi office
- Carwash
- Self-storage units
- Motor vehicles

## Visits by trading standards officers

117 councils were able to provide detail on the number of visits undertaken by trading standards officers. 90% of these councils had visited premises in relation to illicit tobacco products; a total of 3,438 visits were achieved.

If this figure is used as an indication of the likely picture in non-responding councils, this would mean an estimated total of around 4,000 premises were visited across England in 2018/19 in relation to illicit tobacco products.

## Visits by trading standards officers by premises type

Councils were asked to provide a breakdown of the visits undertaken 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; 105 out of 117 councils were able to provide this detail.

In total 3,438 visits by trading standards officers were undertaken by these councils, with the largest proportion of visits by trading standards officers being directed at small retailers (55%), followed by off-licences (20%); the smallest proportion were undertaken at national newsagents (<1%).

**Table 5. Illicit tobacco: visits by premises types**

Type of premises	Visits undertaken (%)
Large retailer	3%
Small retailer	55%
National newsagent	1%
Independent newsagent	10%
Off-licence	20%
Petrol station kiosk	1%
Market/car boot sale	1%
Pub/club	1%
Private homes	4%
Other (please specify)	6%



## Seizure of illicit tobacco products

94% of all councils that undertook work in relation to illicit tobacco products had seized illicit tobacco products.

79 out of the 111 councils that seized illicit tobacco products were able to provide detail across each illicit tobacco product on the amount seized; the three most frequently seized illicit tobacco products were:

- Cigarette brands that are not for legitimate sale in the UK; these were seized by 91% of councils, with a median average of 19,320 sticks per council.
- Counterfeit cigarettes; these were seized by 86% of councils, with a median of 10,770 sticks per council.
- Counterfeit hand-rolling tobacco; this was seized by 78% of councils, with a median average of 13 kg per council.

Seized by the smallest proportion of councils (3%) was raw tobacco.

**Table 6. Illicit tobacco: seized products**

Type of product	Percentage seizing products (%)	Median number per council (in councils seizing only)	Base
Cigarette brands not for legitimate retail in the UK	91%	319,320 sticks	79
Counterfeit cigarettes	86%	10,770 sticks	
Genuine non-UK duty paid cigarettes	57%	11,865 sticks	
Counterfeit hand-rolling tobacco	78%	13 kg	
Genuine non-UK duty paid hand-rolling tobacco	67%	7 kg	
Raw tobacco	3%	2 kg	
Counterfeit tobacco packaging/pouches	8%	530 packages/pouches	
Shisha	20%	10 kg	
Smokeless tobacco	22%	6 kg	

## Proportion of illicit cigarettes seized in SPoT packaging

76 councils that stated that they had seized either counterfeit cigarettes or genuine non-UK duty paid cigarettes and provided detail on the proportion of illicit cigarettes seized that were in SPoT packaging. 27 councils reported such seizures; for those that reported such seizures the median proportion was 5%.

The brands that were most frequently found in SPoT packaging were Marlboro (18 councils), Mayfair (10 councils) and Richmond and Lambert & Butler (both eight councils).

## Proportion of Illicit hand-rolling tobacco seized in SPoT packaging

75 councils that stated that they had seized such products provided detail on the proportion of illicit hand-rolling tobacco seized that was in SPoT packaging. 17 councils reported such seizures; for those that reported such seizures the median proportion was 10%.

The brands that were most frequently found in SPoT packaging were Amber Leaf (22 councils) and Golden Virginia (19 councils).

## Cigarette brands that are not for legitimate sale in the UK

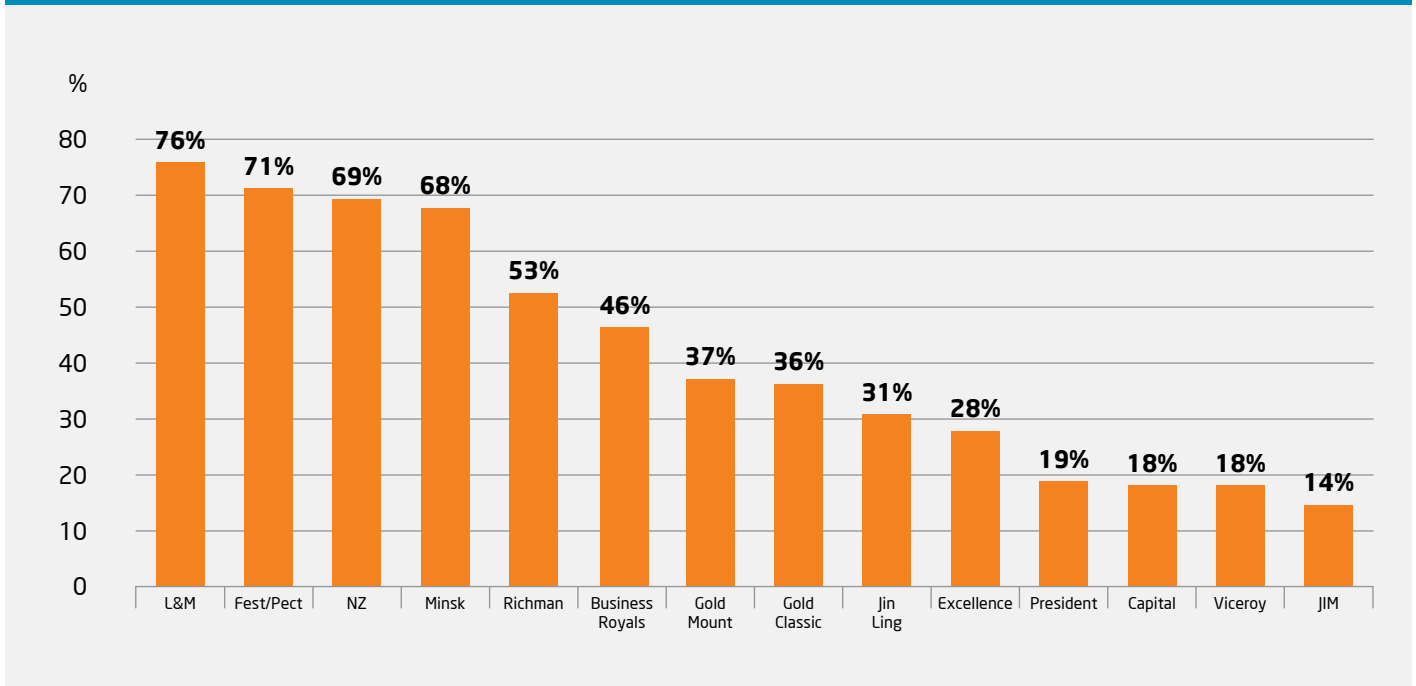
Of the 78 councils that stated that they had seized such products, the three brands that were most frequently reported being seized were:

- L&M (76% of councils).
- Fest/Pect (71% of councils).
- NZ (69% of councils).

32% of councils stated other brands (48 additional brands were mentioned). The most frequently mentioned of these brands was Kent (by six councils).

Two councils did not know what types of cigarette brands not for legitimate sale in the UK they had seized.

Figure 10. Illicit tobacco: cigarette brands not for legitimate sale in the UK





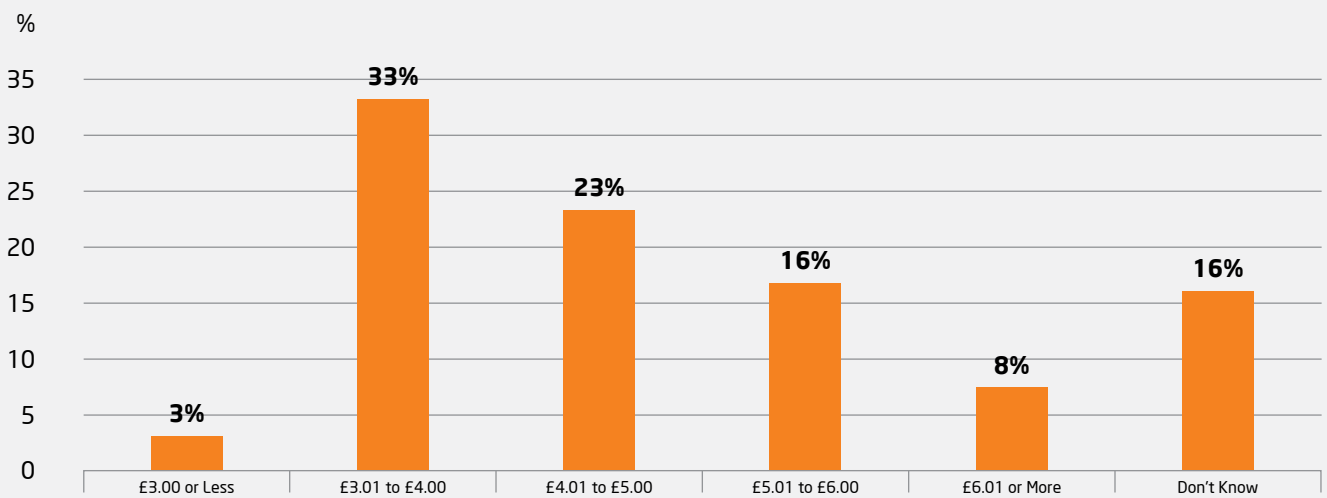
## Any illicit cigarettes seizures: general intended sales price

91 respondents that reported seizures of any illicit cigarettes (cigarettes not for legitimate sale in the UK, counterfeit cigarettes or genuine non-uk duty paid cigarettes) were asked to select the general intended sale price of the cigarettes seized.

33% of councils reported that the general intended sales price was £3.01 to £4, whilst 23% of councils reported that the general intended sales price was £4.01 to £5.

3% of councils reported that the general intended sales price of cigarettes was £3 or less. 16% of councils did not know the general intended sales price of the seized illicit cigarettes.

**Figure 11. Illicit tobacco: general intended sales price – illicit cigarettes**



*Base: all councils that reported seizing cigarette brands not for legitimate sale in the UK, counterfeit cigarettes or genuine non-UK duty paid cigarettes (91).*



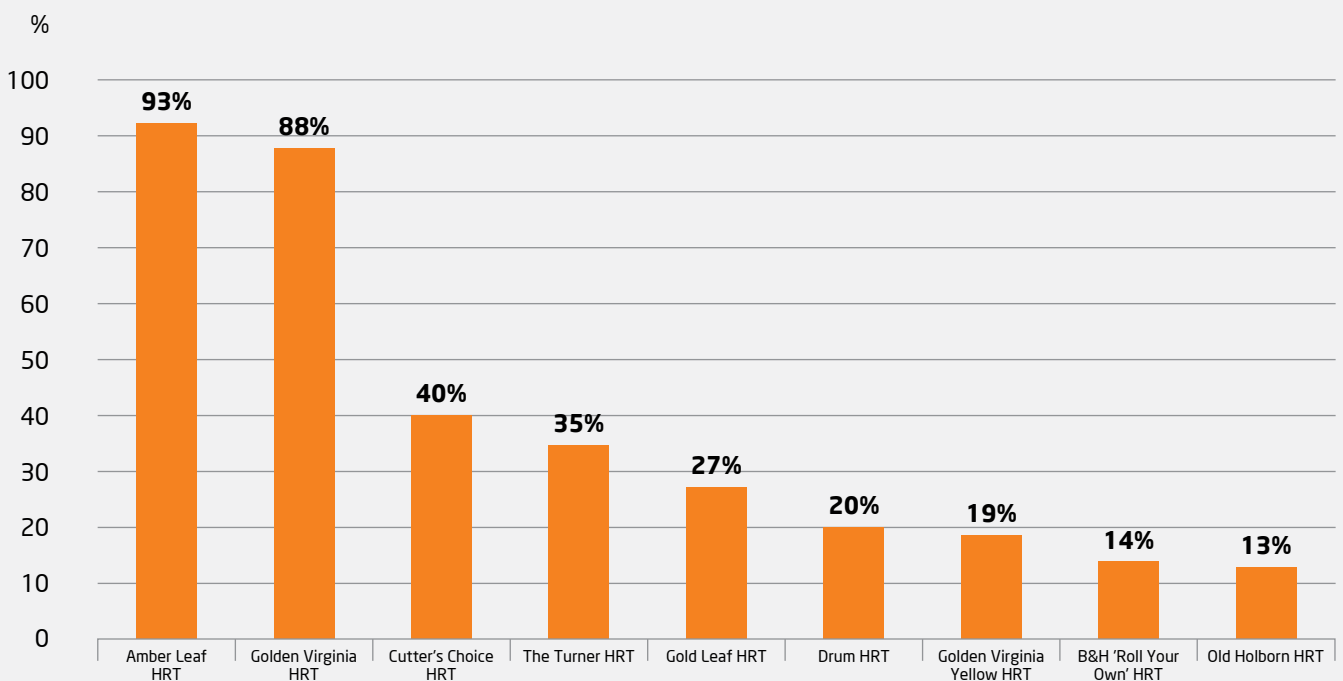
## Illicit hand-rolling tobacco brands

Of the 85 councils that stated that they had seized illicit hand-rolling tobacco, the three brands that were most frequently reported being seized were:

- Amber Leaf (93% of councils).
- Golden Virginia (88% of councils).
- Cutters Choice (40% of councils).

Other types of illicit hand-rolling tobacco were mentioned by 14% of councils. The most common being Robin Hood.

**Figure 12. Illicit tobacco: hand-rolling tobacco – brands seized**



*Base: all councils that reported seizing counterfeit hand-rolling tobacco and genuine non-UK duty paid hand-rolling tobacco (85).*



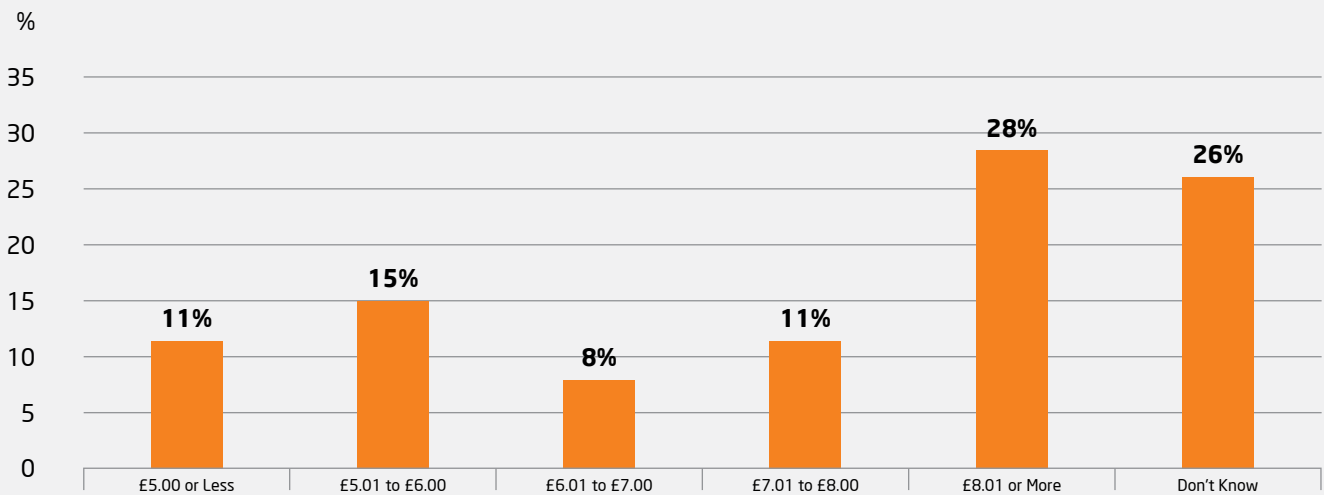
## Illicit hand-rolling tobacco seizures: general intended sales price

All respondents that reported seizures of non-UK duty paid hand-rolling tobacco and counterfeit hand-rolling tobacco were asked to select the general intended sale price of the hand-rolling tobacco seized.

28% of councils selected £8.01 or more, followed by 26% of councils that did not know the general intended sales price of the seized hand-rolling tobacco.

The smallest proportion of councils (8%) reported that the general intended sales price was £6.01 to £7.

**Figure 13. Illicit tobacco: hand-rolling tobacco – general intended sales price**



*Base: all councils that reported seizing counterfeit hand-rolling tobacco, genuine non-UK duty paid hand-rolling tobacco (88).*

## Display and pricing of tobacco products

**46% of all councils undertook tobacco control activities in relation to the display and pricing of tobacco products.**

The Tobacco Advertising and Promotion (Display) (England) Regulations 2010<sup>8</sup> and the Tobacco Advertising and Promotion (Display of Prices) (England) Regulations 2010<sup>9</sup> effectively prohibit the display of tobacco products at point of sale in all business premises. The Regulations have been in force for a number of years with few reported incidents of non-compliance. There has been a significant reduction in the activity of councils in this area from 2017/18, when 69% of councils undertook display and pricing activities.

8. Tobacco Advertising and Promotion (Display) (England) Regulations 2010 available at: <http://www.legislation.gov.uk/uksi/2010/445/contents/made> [accessed 12 June 2019]

9. Tobacco Advertising and Promotion (Display of Prices) (England) Regulations 2010 Available at: <http://www.legislation.gov.uk/uksi/2010/863/contents/made> [accessed 12 June 2019]

## Compliance visits

Of those councils that undertook tobacco control activities in relation to the display and pricing of tobacco products, 98% had carried out compliance visits at premises between 1 April 2018 and 31 March 2019.

56 out of 57 councils that carried out compliance visits at retail premises to check for display requirements were able to provide detail of the outcome. 45 out of 57 councils that carried out compliance visits at retail premises to check for pricing requirements were able to provide detail on the outcome:

- Of 2,655 visits by councils in relation to display requirements, 89% were compliant with display requirements.
- Of 2,219 visits by councils in relation to pricing requirements, 95% reported compliance with pricing requirements.

**Table 7. Display and pricing: compliance visits**

Outcome	Percentage of visits (%)	Median number per council (in councils taking action only)	Total number of visits
Compliance with display requirements	89	24	2,655
Compliance with pricing requirements	95	24	2,219

*Base: All councils that carry out compliance visits at retail premises between 1 April 2018 and 31 March 2019 (45).*

7% of councils that undertook work in relation to the display and pricing of tobacco products carried out compliance visits at wholesale/cash and carry businesses.

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

## Tobacco and Related Products Regulations 2016

**63% of all councils undertook activities in relation to Tobacco and Related Products Regulations including e-cigarettes and liquids.**

*The Government Tobacco Control Plan: Delivery Plan 2017-2022*<sup>10</sup> includes a commitment to review the impact of the Tobacco and Related Products Regulations 2016<sup>11</sup> by March 2020, and thus the data collected in this period 2018-19 will provide a useful benchmark of regulatory compliance. The Regulations apply to both tobacco and nicotine inhaling products and set out the requirements for product compliance.

10. *Tobacco Control Plan: Delivery Plan 2017-2022* (2017) Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/714365/tobacco-control-delivery-plan-2017-to-2022.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/714365/tobacco-control-delivery-plan-2017-to-2022.pdf) [accessed online 12 June 2019]

11. Tobacco and Related Products Regulations 2016. Available at: <http://www.legislation.gov.uk/uk/si/2016/507/contents/made> [accessed online 12 June 2019]



## Visits undertaken to assess tobacco product compliance with the TRPRs

66% (of the 77 councils) provided detail on the number of visits undertaken to assess tobacco product compliance; where respondents were able to provide detail, they undertook a total of 2,331 visits.

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 visits were undertaken to assess tobacco product compliance in England in 2018/19.

## Visits undertaken to assess product compliance with the TRPRs

Councils were asked to provide details of the number of visits made to check for compliance for both tobacco products and nicotine inhaling products and provide the number of non-compliant visits.

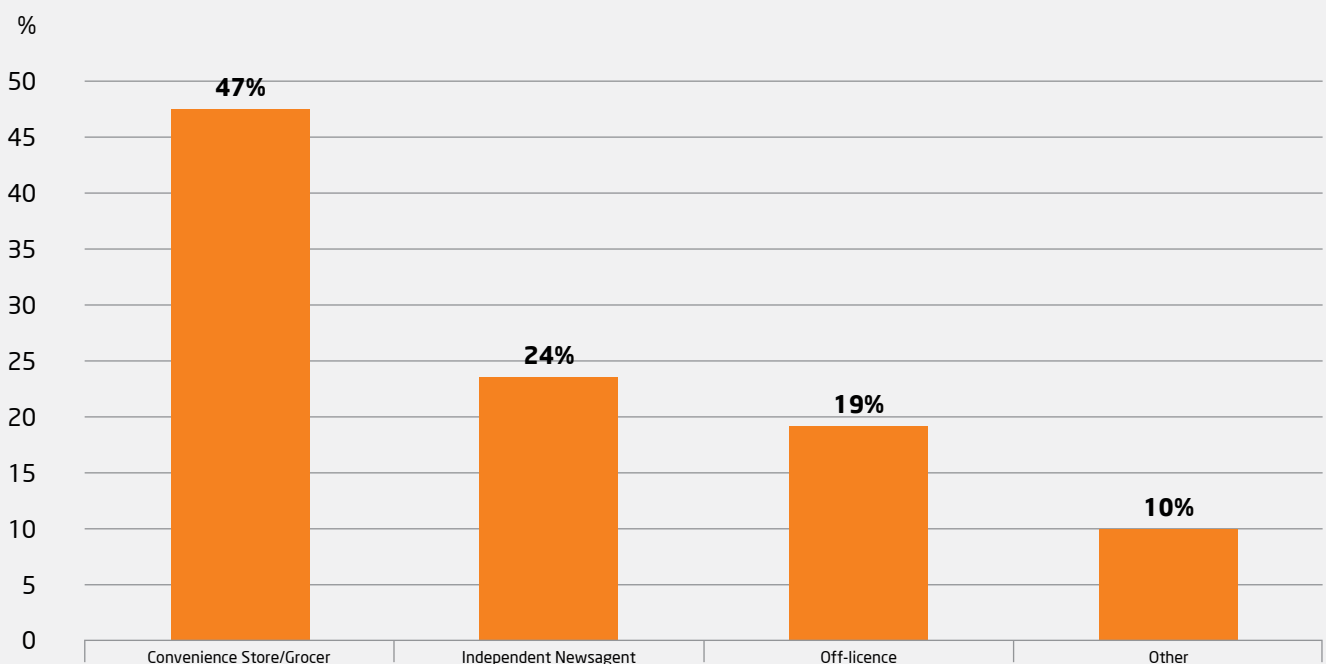
- 2,331 visits were made by 41 councils to assess tobacco product compliance.
- 18% visits found non-compliant tobacco products.
- 1,273 visits were made by 69 councils to assess nicotine inhaling product compliance.
- 17% visits found non-compliant nicotine inhaling products.

## Premises where tobacco products were most often non-compliant

Councils were asked to provide detail on which premises type tobacco products were found to be non-compliant. 32 out of the 77 councils were able to provide detail.

Convenience store/grocer was the type of premises indicated the most where non-compliant tobacco products were found (47% of responses). Independent newsagent was the second most common with 24% of responses, followed by off-licence with 19%. Other places respondents listed where non-compliant products were found include shisha cafes and mobile phone stalls.

**Figure 14. TRPRs: premises type where non-compliant tobacco products were found**



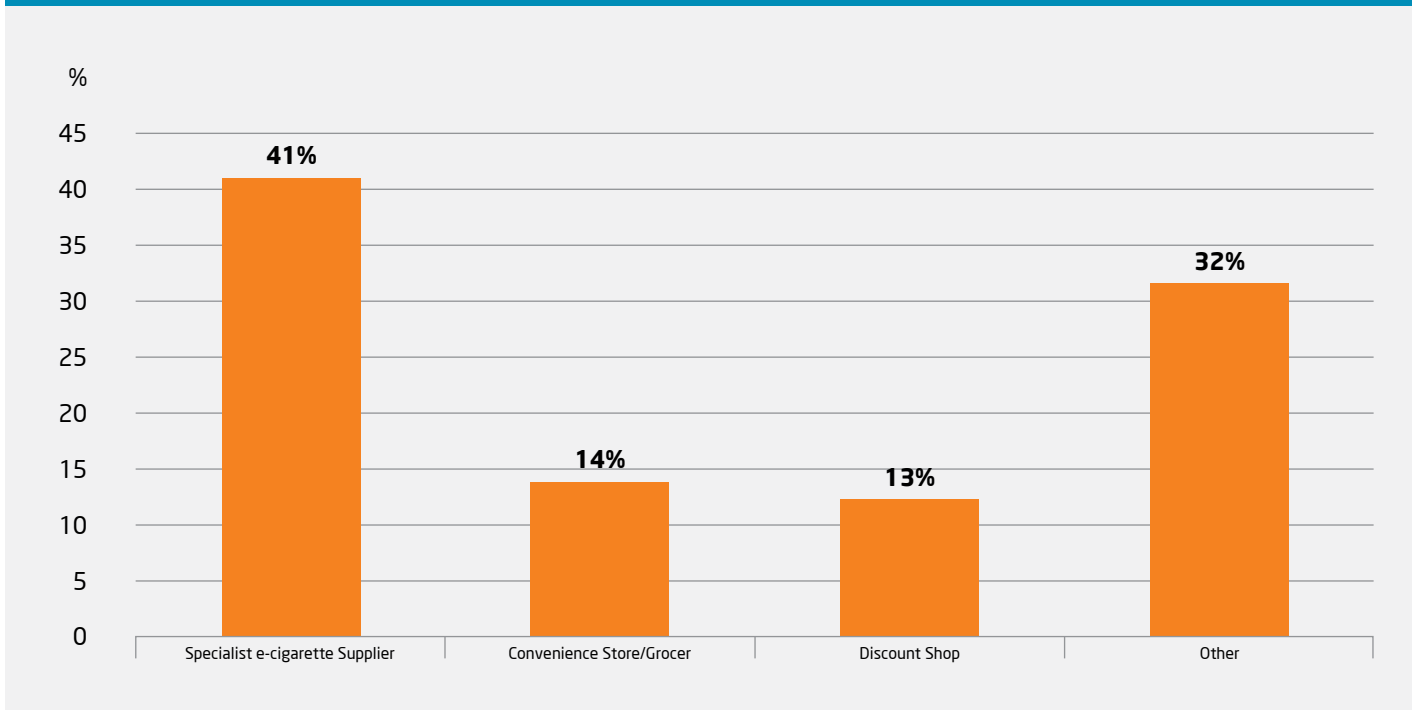
Other includes pub/club (4%), online (3%), national newsagent (2%), large retailer (1%), petrol station kiosk (1%),

## Premises where nicotine inhaling products were most often non-compliant

Councils were asked to provide detail on which premises type tobacco products were found to be non-compliant. 52 out of the 77 councils were able to provide detail.

Specialist e-cigarette supplier was the type of premises indicated the most where non-compliant nicotine inhaling products were found, 41% of responses. Convenience store/grocer was the second most common with 14% of responses, followed by discount shop with 13%.

**Figure 15. TRPRs: premises type where non-compliant nicotine inhaling products were found**



Other includes mobile phone shop (10%), Independent newsagent (8%), large retailer (4%), online retailer (4%), pharmacy independent (2%), market stall/car boot sale (2%), petrol station kiosk (1%).



## Standardised Packaging of Tobacco Products Regulations 2015

**28% of all councils undertook tobacco control activities in relation to the Standardised Packaging of Tobacco Products Regulations 2015 (SPoT).**

The Standardised Packaging of Tobacco Products Regulations<sup>12</sup> are also subject to review in 2020 and thus for the same reason cited for Tobacco and Related Products Regulations the data collected through this survey will serve as a useful benchmark.

The Regulations apply to cigarettes and hand-rolling tobacco for standardised packaging requirements and to tobacco blunts and shisha tobacco with regards to references to flavours.

### Visits undertaken to assess tobacco product compliance with the SPoT requirements

31 councils provided detail on the number of visits undertaken to assess compliance with SPoT; where respondents were able to provide detail, they undertook a total of 2,139 visits.

If this figure is used as an indication of the likely picture in non-responding councils; this would mean an estimated total of around 2,400 visits were undertaken to assess tobacco product compliance with SPoT requirements in England in 2018/19.

14% of visits to assess tobacco product compliance with the SPoT (2015) requirements found non-compliant products.

### Premises where tobacco products were most often non-compliant with SPoT requirements

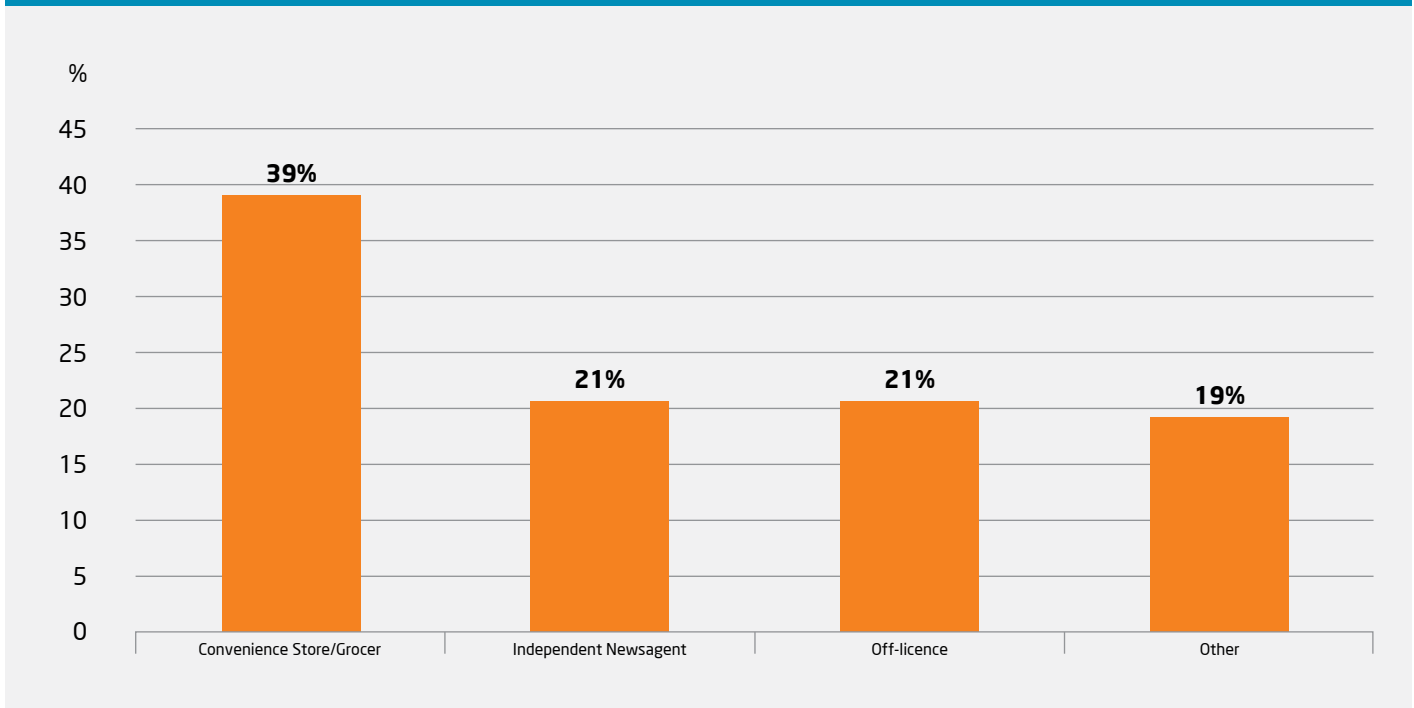
Councils were asked to provide detail on which premises type products were found to be non-compliant with SPoT requirements. 16 out of the 33 councils were able to provide detail.

Convenience store/grocer was the type of premises indicated the most where non-compliant tobacco product was found, 39% of responses. Independent newsagents and off-licences were the second most common with 21% of responses each.

14% of visits to assess tobacco product compliance with the SPoT (2015) requirements found non-compliant products.

12. Standardised Packaging of Tobacco Products Regulations 2015 Available at: <http://www.legislation.gov.uk/uksi/2015/829/contents/made> [accessed online 12 June 2019]



**Figure 16. SPoT: premises type where non-compliant tobacco products were found**


Other includes large retailer (5%), online (5%), national newsagent (3%), pub/club (3%), private homes (3%).

## Actions taken

Respondents were asked to indicate the actions taken where breaches of the legislation were found. The types of actions taken range from warnings through to prosecutions.

For the repeated illegal supply of tobacco or nicotine inhaling products to underage persons an alternative approach is also available; the local authority may apply to the Magistrates' Court for a restricted premises or sales order.

The penalties for offences are set out in the legislation and range from a financial penalty through to custodial sentences. The award of the penalty is a function of the court and thus inconsistencies may be found between like offences that are heard by different magisterial benches in different localities.

**Table 8. Percentage of councils taking actions**

	Warning (verbal or written)	Restricted sales order	Restricted premises order	Prosecution	Other
UAS tobacco	26%	0%	0%	8%	12%
UAS NIPs	23%	0%	0%	2%	5%
Display and pricing	18%	N/A	N/A	0%	1%
Illicit tobacco – trade marks	45%	N/A	N/A	44%	21%
TRPRs any	38%	N/A	N/A	27%	16%
SPoT any	21%	N/A	N/A	20%	15%

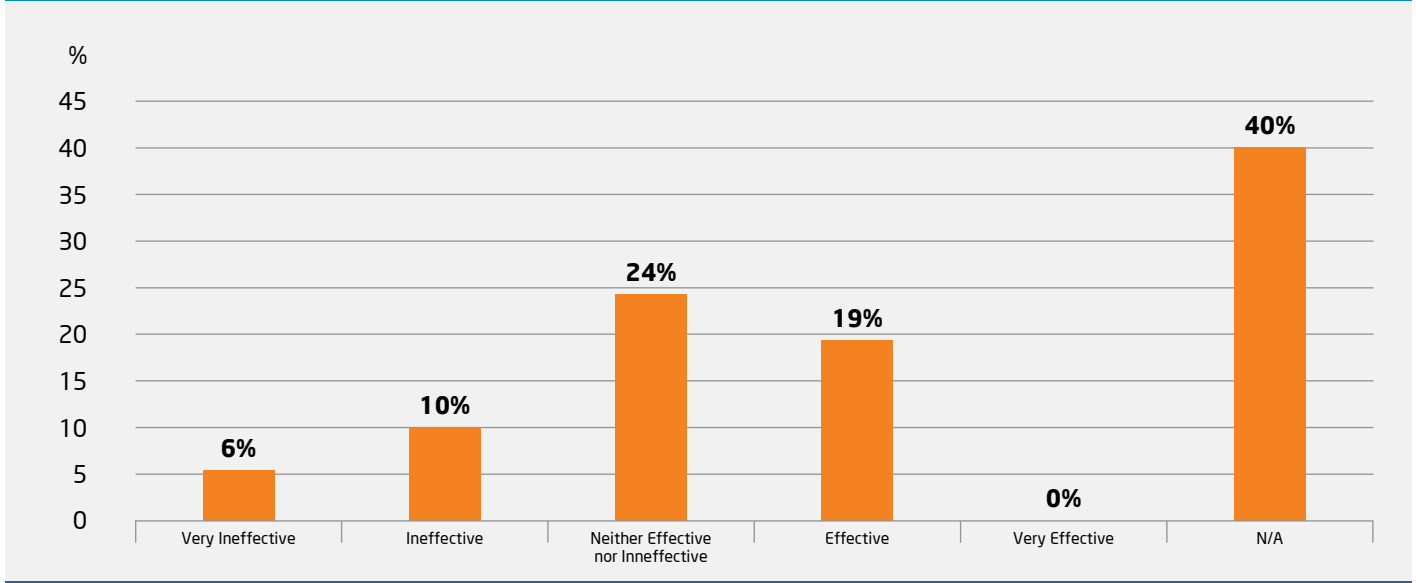
Other actions include – but are not limited to – simple cautions, a formal caution, licence reviews and revocations, closure orders and advisory visits.



## Effectiveness of penalties - UAS tobacco control

When asked how effective they believed the sanctions to be in altering future business practice, of the 120 councils that responded, 16% considered them ineffective or very ineffective, with 19% believing they are effective, and 24% neither effective nor ineffective.

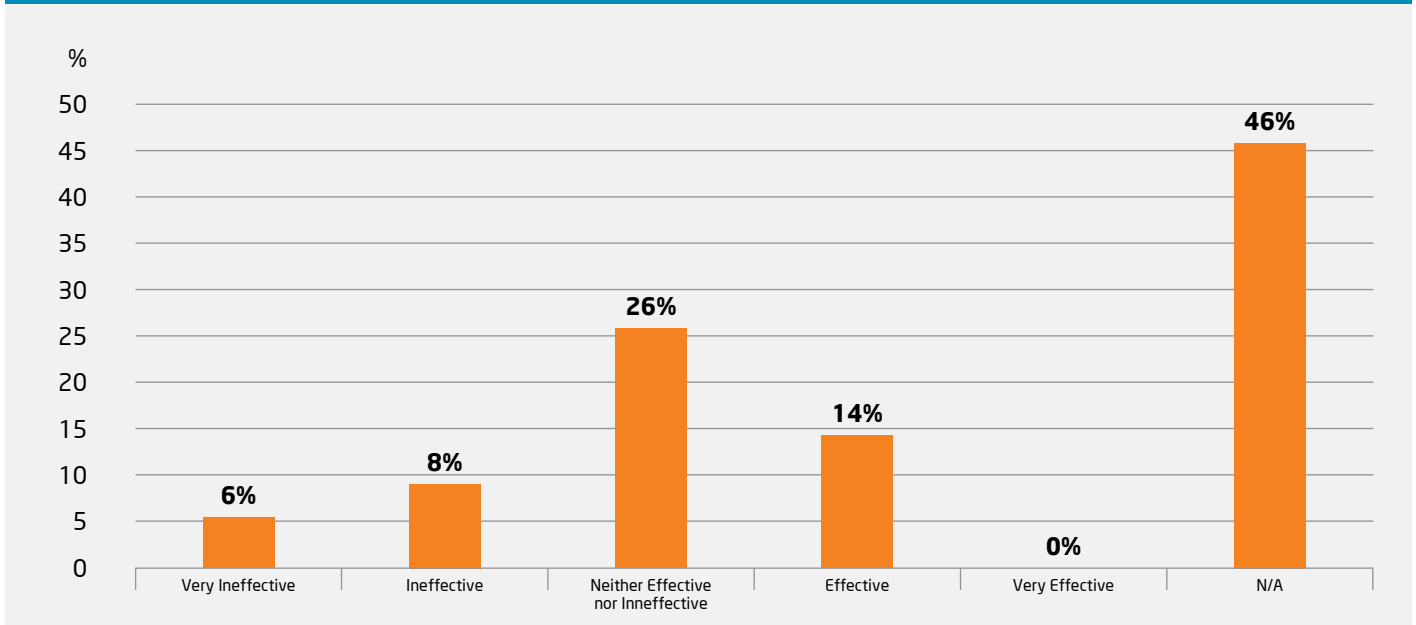
**Figure 17. Effectiveness of penalties: underage sales of tobacco**



## Effectiveness of penalties - UAS nicotine inhaling products

When asked how effective they believed the sanctions to be in altering future business practice, of the 119 councils that responded, 14% considered them ineffective or very ineffective, with 14% believing they are effective, and 26% neither effective nor ineffective.

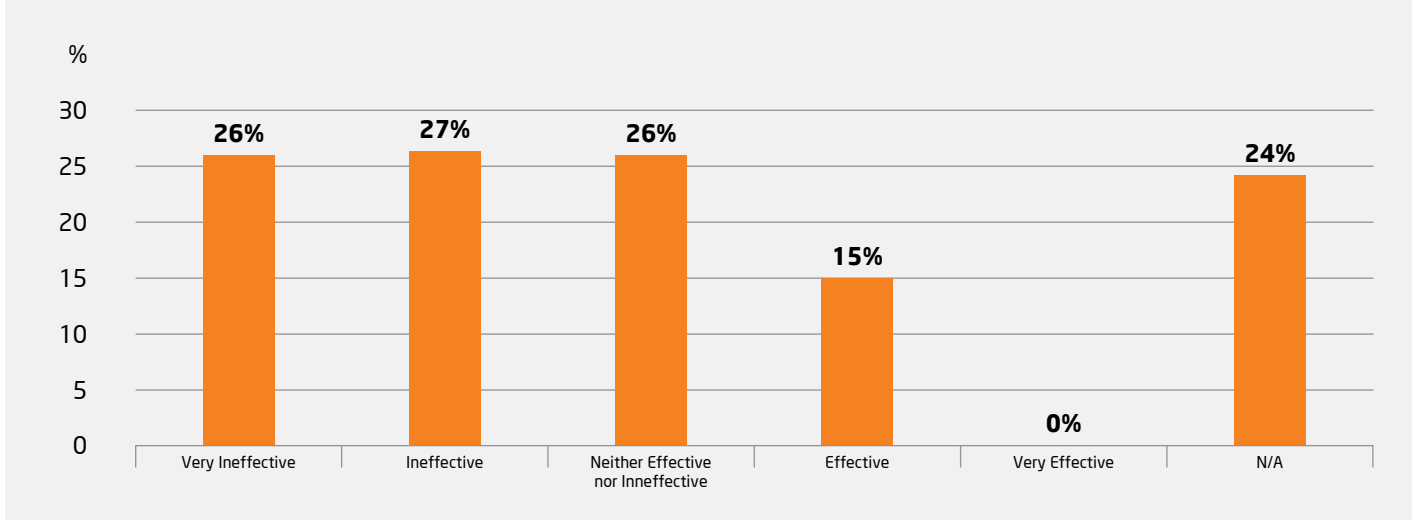
**Figure 18. Effectiveness of penalties: underage sales of nicotine inhaling products**



## Effectiveness of penalties: Illicit tobacco

When asked how effective they believed the sanctions to be in altering future business practice, of the 120 councils that responded, 53% considered them ineffective or very ineffective, with 8% selecting effective and 24% not commenting.

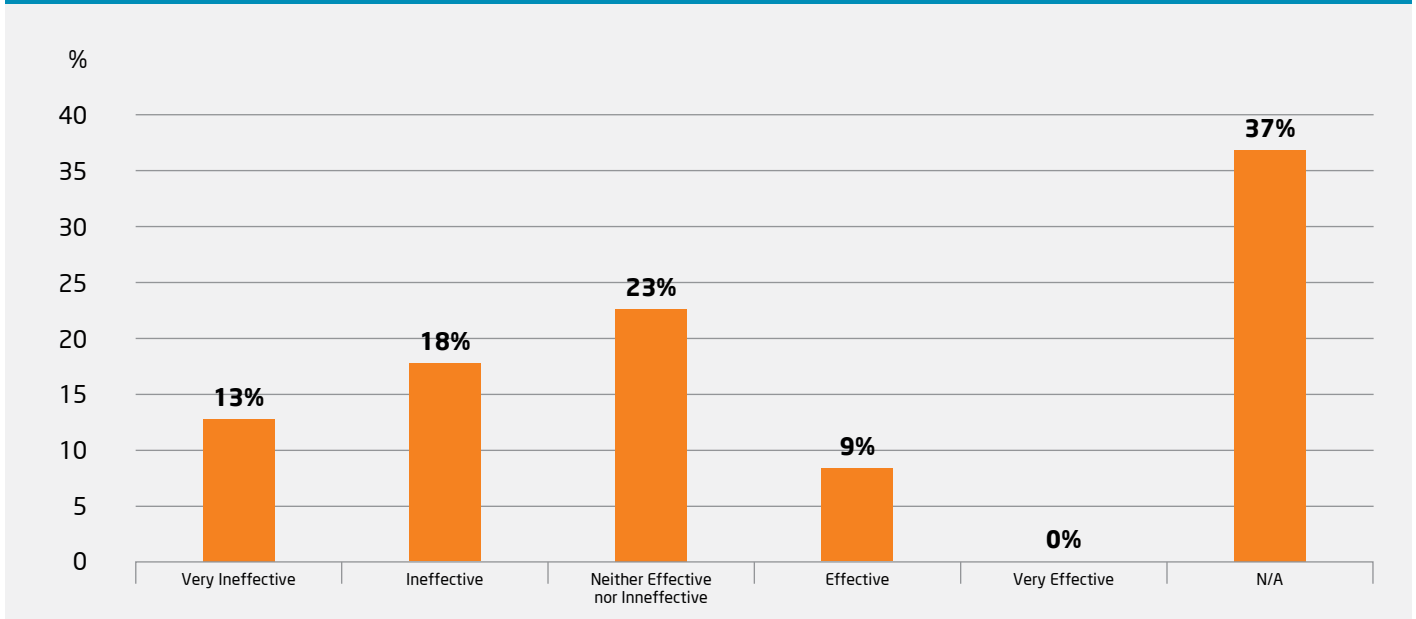
Figure 19. Effectiveness of penalties: illicit tobacco



## Effectiveness of penalties: Tobacco and Related Products Regulations 2016

13% of councils said that overall, they believe penalties have been very ineffective in preventing future breaches in legislation. A total of 31% said that they believe them to be very ineffective or ineffective. 9% of councils believe the penalties are effective at preventing further breaches of legislation.

Figure 20. Effectiveness of penalties: TRPRs

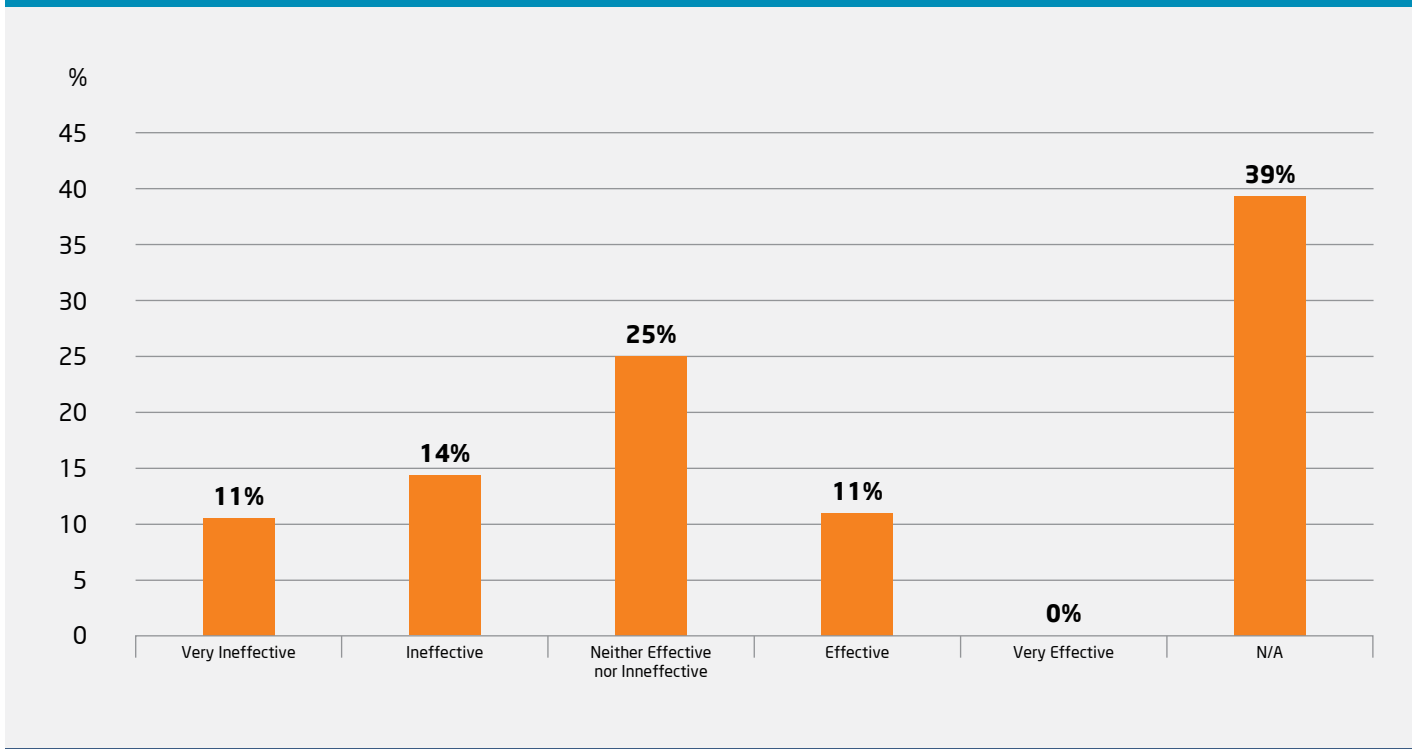




## Effectiveness of penalties: Standardised Packaging of Tobacco Products Regulations 2015

1% of councils said that overall, they believe penalties have been very ineffective in preventing future breaches in legislation. A total of 25% said that they believe them to be very ineffective or ineffective. 11% of councils believe the penalties are effective at preventing further breaches of legislation.

**Figure 21. Effectiveness of penalties: SPoT**



## Conclusion

The types of tobacco control activity undertaken by trading standards in 2018/19 remain broadly the same as 2017/18. Apart from activities relating to Illicit tobacco products and underage sales activities, which have shown a slight increase from the previous survey, there has been a large reduction in activities undertaken across the other categories. Most notably a fall from 62% to 28% in councils undertaking activities relating to Standardised Packaging of Tobacco Products.

It is encouraging to note that just under 75% of respondents stated that their council prioritised tobacco control as an activity despite the resourcing pressures that most trading standards services are under. Tobacco control competes for resources and priority alongside other trading standards activities – for example, product safety, food safety, doorstep and intellectual property crime.

It remains of concern that the sanctions imposed by the courts are not generally considered to be effective in deterring future breaches of the law. There were no instances of the sanctions being regarded as very effective by the respondents.

Whilst the continued support of the Department of Health and Social Care is welcomed, it should be noted that the level of support has reduced since the last survey was completed. This has had an effect on the coordinated project work undertaken by trading standards.

## Underage sales: tobacco products

Levels of activity in relation to underage sales of tobacco products increased by 7% compared to 2017/18. There was an increase in the proportion of councils that received complaints and enquiries and undertook visits with trading standards officers; the average number of complaints and enquiries and visits remained the same.

The sales levels from test purchase operations increased between 2017/18 at 10% to 18%. The greatest percentage of sales occurred at convenience stores/grocers, whereas in 2017/18 the greatest number occurred at independent newsagents.

The level of actions (verbal warnings, simple cautions and prosecutions) remained broadly the same as in 2017/18.

## Underage sales: NIPs

Levels of activity were much lower than 2017/18. However, a higher proportion of councils received complaints and enquiries, and undertook visits with trading standards officers.

The sales levels for test purchases increased markedly from 28% in 2017/18 to 40% in 2018/19. Where the number of visits was over 20, the greatest percentage of sales occurred at specialist e-cigarette stores, whereas in 2017/18 the greatest number occurred at discount stores.

## Illicit tobacco products

In 2018/19 illicit tobacco control activity increased slightly over the previous year. There was a reduction in the proportion of complaints and enquiries received overall.

Brands not for legitimate supply in the UK continued to be the product most likely to be seized, as in previous years; L&M remained the brand that was the most frequently seized.

The level of actions (verbal warnings, simple cautions and prosecutions) changed slightly from 2017/18, with verbal or written warnings decreasing to 45% and the number of prosecutions increasing to 44%. Prosecutions in relation to illicit tobacco products were higher than any other tobacco control activities at 44%.



Despite the greater occurrence of prosecutions, 53% considered the penalties to be not very effective or not at all effective in preventing further breaches of the legislation.

## Display and pricing of tobacco products

Levels of activity in relation to display and pricing of tobacco products fell significantly in 2018/19, with a 23% decrease in the number of councils that undertook this activity.

Where this activity was undertaken, nearly all councils that undertook this work (98%) carried out compliance visits at retail premises; the vast majority of visits undertaken found compliance with both display and pricing requirements (89% and 95% of all visits respectively). This marks a slight fall in the number of premises compliant for display when compared to 2017/18 (95%).

This is compared to very few councils having undertaken visits to wholesale/cash and carry businesses (just 7%). Very few visits were undertaken (only eight), all of which were compliant with both display and pricing requirements.

Where action was taken, this was in the form of written or verbal warnings. No councils undertook prosecutions. This is similar to last year.

## Tobacco and Related Products Regulations 2016

Levels of activity in relation to TRPR fell slightly in 2018/19, with an 8% decrease in the number of councils that undertook this activity.

Cigarettes were found to be non-compliant with the Regulations by the greatest proportion of councils. Convenience stores/small retailers were the premises type where non-compliant products were most likely to be found.

Refill products were found to be non-compliant with the Regulations by the greatest proportion of councils. Specialist e-cigarette suppliers were the premises type where non-compliant products were most likely to be found.

Actions were taken by two thirds of councils; typically, where action was taken, this was in the form of written or verbal warnings. However, prosecutions were undertaken by just over a quarter of councils (27%). 51 fines were imposed in total; the same as in 2017/18.

## Standardised Packaging for Tobacco Products Regulations 2015

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