



Chartered Trading  
Standards Institute

# Tobacco Control Survey, England 2014/15

A Report of Trading Standards Service Activity



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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 2014 to March 2015.

An online survey was emailed to all councils in England in April 2015 undertaking tobacco control activities (151 councils in total). The deadline for completion of the survey was Friday 19 May 2015. The survey was completed by 150 councils, which provided a response rate of 99%. Although this response rate is high, the base for some findings does vary, as not every respondent answered every question.

### Tobacco control activities

- 97% of councils were undertaking at least one type of tobacco control activity.
- Of all councils:
  - 94% had undertaken activities related to illicit tobacco products.
  - 91% had undertaken activities related to under-age sales.
  - 67% had undertaken activity related to electronic cigarettes.
  - 45% had undertaken activity related to niche tobacco supply.

### Under-age sales: premises

- 91% of all councils had conducted tobacco control activities in relation to under-age sales.
- 76% of all councils had dealt with complaints and enquiries about under-age sales of tobacco concerning retail premises, receiving 1,545 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 1,800 complaints and enquires about under-age sales from retail premises would have been received in England in 2014/15.
- 113 out of the 114 councils, who 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 had been received regarding small retailers (41% of all complaints and enquiries).
- 76% of all councils had undertaken visits with trading standards officers about 5,311 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 7,700 visits by trading standards officers about under-age sales would have been undertaken in England in 2014/15.
- 112 out of the 114 councils, who had undertaken visits with trading standards officers, were able to provide detail on the types of premises visited. The greatest proportion of visits had been made to small retailers (43% of all visits).

76% of all councils (which is 83% of those who conduct activities related to under-age 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:

- 108 out of 114 councils had supplied the number of premises visited; the total number was 2,932. If this figure is used as an indication of the likely picture in non-responding councils, this would mean an estimated total of around 3,400 premises across England would have been tested for compliance with the requirements of the tobacco age of sale legislation in 2014/15.
- 93% reported that cigarettes or tobacco products had been sold to the volunteer young persons in at least one premises; cigarettes were sold to under-age young persons at a total of 311 premises. If this figure is used as an indication of the likely picture in non-responding councils, this would mean that an estimated total of around 315 premises across England would have been detected making illegal sales of tobacco products to under-age young persons in 2014/15.
- Where data was provided on the number of premises and number of sales, illegal sales of cigarettes occurred in 11% of test purchase operations.
- 95 councils out of 114 were able to provide detail on both the types of premises visited and where sales occurred. The greatest proportion of visits were undertaken to small retailers (42%). The greatest proportion of sales occurred at market/car boot sales (25%); however only four test purchases were attempted at this type of premise. The greatest proportion of sales occurred at petrol station kiosks (15%) where 125 test purchases took place.

### **Under-age sales: actions taken in relation to the Children and Young Persons Act 1933 (as amended)**

57% of all councils (which is 76% of those who conducted activities related to under-age sales) stated that action had been taken as a result of breaches of the Children and Young Persons Act 1933 (as amended). Of these:

- Verbal or written warnings were the most common type of action to be taken by the majority of councils (69%).
- 19% had undertaken legal action (prosecution cases).
- 2 councils stated that one or more of their prosecution cases against a business had ended in a conviction (resulting in a total of two convictions). No business convictions were for “repeat offenders”.
- 7 councils stated that one or more of their prosecution cases had ended in conviction of an individual (resulting in a total of 12 individual convictions). One conviction of an individual was a repeat offender.
- 7 councils reported that magistrates had imposed a fine as a result of one or more of these convictions. The majority (60%) of fines imposed were £500 or less.
- No restricted sales or premises orders had been approved.

## Illicit tobacco products

- 94% of all councils were undertaking work in relation to illicit tobacco products.
- 73% of all councils stated that there was a strategy in place in their region to tackle illicit tobacco products.
- 51% of all councils had undertaken joint operations with Her Majesty's Revenue and Customs (HMRC).
- 57% of all councils undertaking actions in relation to illicit tobacco products stated that their activity levels had increased in the 2014/15 financial year.
- 82% of all councils had dealt with complaints and enquiries about illicit tobacco products, receiving 3,580 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 3,800 complaints and enquires about illicit tobacco products would have been received in England in 2014/15.
- 124 out of the 131 councils, who had received complaints and enquiries concerning illicit tobacco products, were able to provide detail on the types of premises that complaints and enquiries had been received about. The greatest proportion of complaints and enquiries had been received regarding small retailers (43% of all complaints and enquiries).
- 81% of all councils had visited premises in relation to illicit tobacco products, undertaking a total of 6,009 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 6,500 premises would have been visited across England in 2014/15 in relation to illicit tobacco products.
- 123 out of the 131 councils, who had undertaken visits in relation to illicit tobacco products, were able to provide detail on the types of premises visited. The greatest proportion of visits were regarding small retailers (51% of all visits).

82% of all councils stated that they had seized illicit tobacco products; 99 councils out of 141 were able to provide a breakdown of how much, if any, of each product was seized:

- The greatest proportion of councils (60%) stated that visits had resulted in the seizure of cheap white cigarettes.
- The brand of cheap white cigarettes most frequently seized was Mayfair (74% of council seizing cheap white cigarettes).
- 40% of councils reported that the average intended sales price of illicit cigarettes seized was £3.01 to £4.00. It was most frequently stated that illicit cigarettes seized originated from Poland (42 councils) and Russia (23 councils).
- 101 councils stated that hand-rolling tobacco was seized. The brand of hand-rolling tobacco most frequently seized was Golden Virginia (with 94% of council stating they had seized this brand).
- The greatest proportion (29%) of councils seizing hand-rolling tobacco did not know the average intended sales price of seized hand-rolling tobacco. It was most frequently stated that illicit hand rolling tobacco seized originated from Poland (27 councils) and Belgium (16 councils).

### Illicit tobacco products: actions taken

135 councils had taken action in relation to illicit tobacco products. Of these:

- Verbal or written warnings were the most common type of action taken by councils (56%).
- 28% had issued simple cautions.
- 50% of councils had undertaken legal actions (prosecutions).
- 17 councils stated that one or more of their prosecution cases against a business had ended in a conviction (resulting in a total of 31 convictions). Ten convictions were for repeat offenders.
- 47 councils stated that one or more of their prosecution cases had ended in a conviction of an individual (resulting in a total of 185 convictions of individuals). Twenty five convictions were for repeat offenders.

### Operation Henry: actions taken

75 of the 81 councils who took part in Operation Henry reported the actions they had taken in relation to illicit tobacco products seized as part of Operation Henry.

- Verbal or written warnings were the most common type of action taken by councils (23%).
- 9% had issued simple cautions.
- 24% of councils had undertaken legal actions (prosecutions).
- 5 councils stated that one or more of their prosecution cases against a business had ended in a conviction (resulting in a total of six convictions). Two convictions were for repeat offenders.
- 11 councils stated that one or more of their prosecution cases had ended in a conviction of an individual (resulting in a total of 21 convictions of individuals). Three convictions were for repeat offenders.

### Niche tobacco products

- 45% of all councils had conducted tobacco control activities in relation to niche tobacco supply.

Of these:

- 78% stated that they had detected niche tobacco products without appropriate labelling (health warnings) between 1 April 2014 and 31 March 2015.
- Most frequently respondents stated that they had detected shisha (64% of councils).



### Niche tobacco products: actions taken

51 councils stated they had taken action in relation to niche tobacco products. Of these:

- Verbal or written warnings were the most common type of action taken by councils (67%).
- 14% had issued simple cautions.
- 10% had undertaken legal actions (prosecutions).
- 3 councils stated that a prosecution had ended in a business conviction, with four businesses in total.
- 3 councils stated that a prosecution had ended in the conviction of an individual with four convictions of individuals in total.

### Electronic cigarettes

- 67% of all councils had undertaken tobacco control activities in relation to electronic cigarettes.

Of those councils:

- 93% had provided advice on electronic cigarettes.
- The greatest proportion of councils (81%) had provided advice to retailers.

Of the councils that had provided advice to consumers (37 councils):

- Most frequently (for 69% of councils) advice was provided about the risk of electrical components.

### Reduced ignition propensity testing

- 123 councils provided detail about reduced ignition propensity testing of cigarettes.

Of these:

- 84% of councils had not undertaken any Reduced Ignition Propensity (RIP) testing in the financial year 2014 – 2015.
- Of the 20 councils who stated they undertook RIP testing, three had submitted samples of genuine cigarettes and 17 had submitted samples of illicit cigarettes between 1 April 2014 to the 31 March 2015 for testing.

### Collaborative working

- 75% of councils stated that there was a local tobacco control or smoke free alliance in their local authority area.
- Of those who stated there was a local tobacco control or smoke free alliance, 93% stated that a representative from trading standards attended at least one meeting in 2014/15.



### **Working in partnership on tobacco control activities**

- 95% of all councils had undertaken work with key partners.
- The greatest proportion (77%) stated that their key partnership was with public health teams in their local authority.
- Nearly three quarters (73%) stated that tobacco control was at the right priority level in their local authority in 2014/15.
- 82% stated that tobacco control was at the right priority level in their trading standards service in 2014/15.

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

- 37% of all councils had a written policy, in relation to Article 5.3 of the Framework Convention on Tobacco Control (FCTC).

## 1 Introduction

This is the third 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 2014 and March 2015; the survey has been supported by the Department of Health (DH). It includes questions made at the request of Her Majesties Revenue and Customs (HMRC) and Action on Smoking and Health (ASH) specifically around illicit tobacco and the priority given to Tobacco Control by Local Trading Standards services.

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

- Conduct of test purchase operations with under-age young persons at retail premises.
- Tackling the supply of illicit tobacco products i.e. counterfeit/smuggled tobacco products.
- Monitoring the supply of niche tobacco products.
- Collaborative working with other agencies to tackle tobacco related issues.

In addition, the survey seeks to gather data concerning electronic cigarettes ahead of changes in the legislation to restrict the sale of the products and to control the concentration of nicotine.

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 council areas with one Trading Standards Service. Where this structure exists, data has been requested for each separate council area.

## Context

The number of people in England who smoke has halved over the last 35 years. In 1980, nearly two in every five adults (39.0%) smoked. By 2013, fewer than one in five (18.4%) smoked<sup>1</sup>. However, smoking remains by far the biggest preventable cause of illness and death in the country.

Prevalence of 18.4% in England equates to more than eight million adult smokers, half of whom are likely to die prematurely as a result of smoking if they do not quit<sup>2</sup>.

In England, the DH and Public Health England (PHE) provide the lead in determining the approach to be taken for comprehensive tobacco control. Public Health Minister, Jane Ellison MP has signalled the commitment of the Government to develop a new five year tobacco control plan with the current strategy *Healthy Lives, Healthy People: A Tobacco Control Plan for England*, (2011)<sup>3</sup> reaching the end of its life cycle at the end of 2015. The current strategy includes the following objectives:

- Encourage and support the effective local enforcement of tobacco legislation, particularly on the age of sale of tobacco products.

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<sup>1</sup>Smoking Still Kills: Protecting children, reducing inequalities. London, ASH, 2015.

<sup>2</sup>Ibid

<sup>3</sup>Healthy Lives, Healthy People: A Tobacco Control Plan for England (2011) [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/213757/dh\\_124960.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/213757/dh_124960.pdf) [accessed online 16th June 2015]

- Support the continuing provision of guidance, education and best practice for the local enforcement of tobacco legislation; and
- Promote local action to identify niche products on sale in communities to ensure that these products meet the requirements of tobacco legislation.

In 2013 PHE published *Our Priorities 2013 – 14*<sup>4</sup>, which stated that the organisation will:

*“Accelerate efforts to promote tobacco control and reduce the prevalence of smoking. We will identify, support and champion national and local efforts to accelerate smoking cessation, promoting the use and implementation of evidence based-interventions, and addressing variations in smoking”.*

During 2014 – 15 there have been two focussed tobacco control activities carried out by Trading Standards services across England: *Operation Henry*<sup>5</sup> – designed to tackle the supply of illicit tobacco at a local level and a project to enhance activity around illegal sales to young people *Enhancing local tobacco control: Preventing under age sales of tobacco*<sup>6</sup>. An indication is given where data from these projects is included in this survey.

The data collected in this survey and reported here helps to inform the DH about regulatory tobacco control matters that are of interest to policy makers and practitioners alike.

<sup>4</sup>Public Health England 2013, *Our Priorities 2013:14* [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/192676/Our\\_priorities\\_final.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/192676/Our_priorities_final.pdf) [accessed online 16th June 2015]

<sup>5</sup>Operation Henry: Tackling the supply of illicit tobacco products in England (2014) <http://www.tradingstandards.uk/policy/Improvingthehealthofsociety.cfm> [accessed online 16th June 2015]

<sup>6</sup>Enhancing local tobacco control: preventing under age sales (2015) <http://www.tradingstandards.uk/policy/Improvingthehealthofsociety.cfm> [accessed online 12th August 2015]

## 2 Methodology

The 2014/15 survey questionnaire was developed jointly by the DH and the 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 who had not completed the survey were contacted individually and encouraged to do so.

The link to the 2014/15 online questionnaire was emailed to all single tier councils on 6 April 2015<sup>7</sup>, and by the end of fieldwork on 19 May it had been completed by 150 councils, which provided a response rate of 99%. Although the vast majority of councils responded, the base does vary, as not every respondent answered every question.

The tables below show response by both council type and region to the survey.

Council Type	Total number in each type	Number of respondents	Response rate (%)
County	27	27	100
London Borough	33	33	100
Metropolitan District	36	35	99
Unitary Authority	55	55	100
<b>Base</b>	<b>151</b>	<b>150</b>	<b>99</b>

Region	Total number in region	Number of respondents	Response rate (%)
East Midlands	9	9	100
East of England	11	11	100
London	33	33	100
North East	12	12	100
North West	23	23	100
South East	19	19	100
South West	15	15	100
West Midlands	14	14	100
Yorkshire and the Humber	15	14	99
<b>Base</b>	<b>151</b>	<b>150</b>	<b>99</b>

<sup>7</sup>This survey was not sent to the Isles of Scilly as there is currently no trading standards service operating on the Islands, due to temporary resourcing issues within the local authority.

All figures provided in the main report are with reference to tobacco control activity conducted in England between 1 April 2014 and 31 March 2015, unless otherwise stated.

Figures are reported as a percentage of the total number of respondents to this survey (150) unless otherwise stated.

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 who stated that they did not know. Grossed figures have been rounded to the nearest 100 unless otherwise stated.

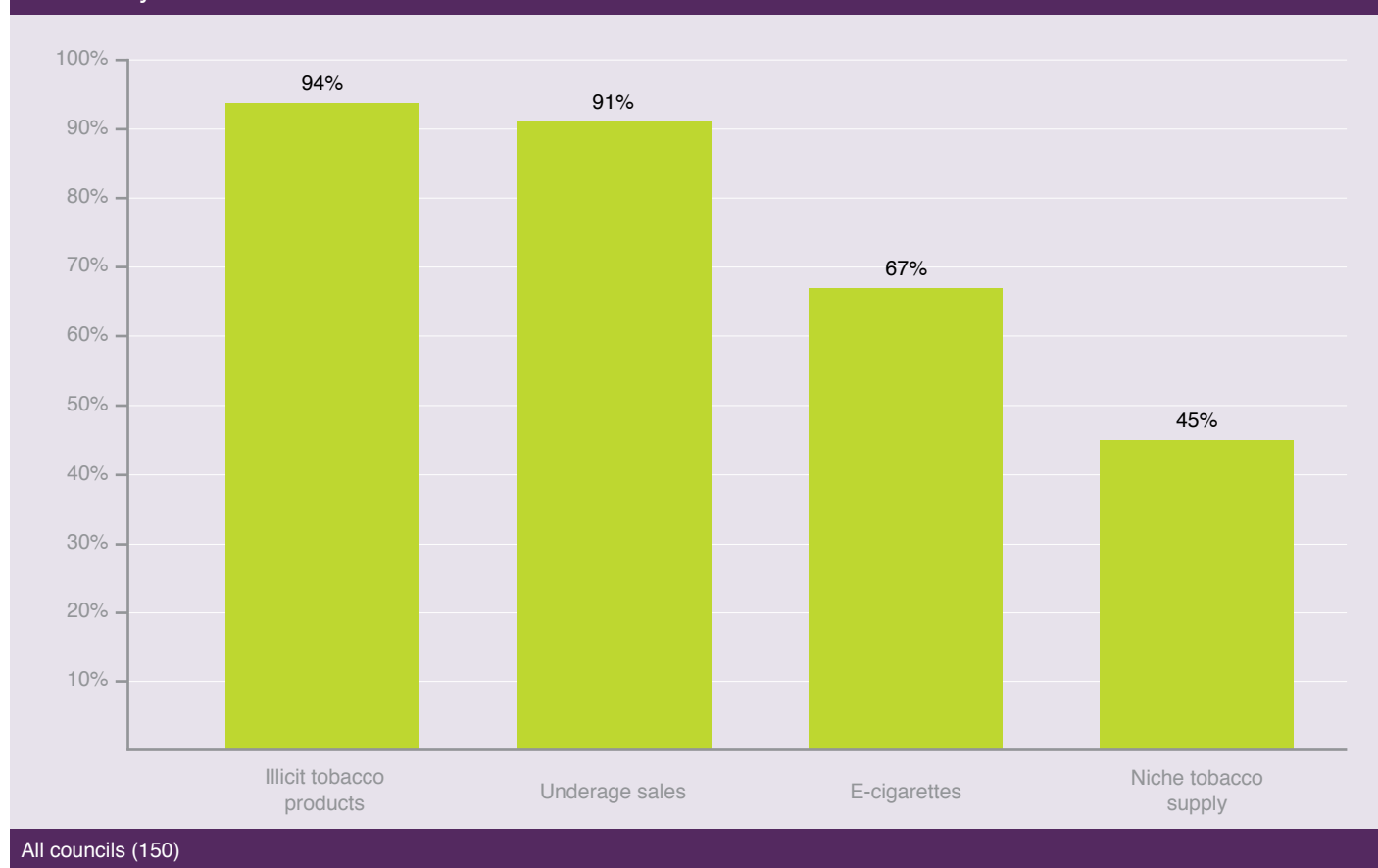
Results are directly compared to the 2013/14 survey only where time series data is available and there are statistically significant differences. Two types of tests to check for statistically significant difference were run: chi squared tests to compare differences between proportions and paired T-tests to provide comparison to mean averages between years. Please note the 2013/14 survey achieved 148 respondents (or a 98% response rate).

### 3 Tobacco control activities

Respondents were asked which core tobacco control activities, from a list of four, their council had undertaken in the financial year 2014/15.

97% of councils were undertaking at least one type of activity. The activity most frequently undertaken was work related to illicit tobacco (94% of councils), with fewest (45%) being involved in activities related to niche tobacco products.

Figure 1: Which, if any, of the following tobacco control activities has your council undertaken in the financial year 2014/15?



Those not undertaking any activity (five councils) generally stated that this was because there was lack of intelligence to direct this work.

## 4 Under-age sales activity

The Government outlines the following national ambition in relation to young people in *Healthy Lives, Healthy People*<sup>8</sup>:

*“To reduce rates of regular smoking among 15 year olds in England to 12% or less by the end of 2015”.*

This ambition has already been surpassed in some areas but by no means all. A new tool designed to help model data on youth smoking in England (available via PHE<sup>9</sup>) estimates that 12.7% of 15 year olds are regular or occasional smokers but notes that there is considerable variation between areas. For example, Harrow has an estimated rate of 5.2% whereas Kingston-upon-Hull has an estimated rate of 16.7%.

National Institute for Health and Care Excellence (NICE) guidelines [PH14]<sup>10</sup> *Preventing the uptake of smoking by children and young people* were first published in 2008 and amended in November 2014. Recommendation 4 specifically relates to the actions that should be taken to prevent illegal sales.

This recommendation includes:

*“Encouraging and providing all local authorities will support to:*

- *Enforce legislation to prevent under-age tobacco sales, in accordance with their statutory role and best practice.*
- *Undertake regular audits of test purchasing to ensure consistent practice and enforcement”.*

This points to the important role that Trading Standards Services have in maintaining a focus in this area and the protection of young people from harm.

Note: All Trading Standards Services that participated in the recent Department of Health supported project on under age sales<sup>11</sup> were invited to include their data in this survey.

## Findings

91% of all councils conducted activities in relation to under-age sales.

### Complaints and enquiries received

76% of all councils had dealt with complaints and enquiries in relation to under-age sales at premises; where respondents were able to provide detail (114 councils), they received a total of 1,545 complaints and enquiries.

If this figure is used as an indication of the likely picture in non-responding councils, this would mean an estimated total of around 1,800 complaints and enquiries about under-age sales from retail premises would have been received in England in 2014/15.

<sup>8</sup>DH. op.cit .pg6

<sup>9</sup>Public Health England “New tool models youth smoking across England” available online at: <https://www.gov.uk/government/news/new-tool-models-youth-smoking-variation-across-england> [accessed 10th July 2015 ]

<sup>10</sup>NICE Guidelines [PH14] available online at: <http://www.nice.org.uk/guidance/ph14> [accessed 10th July 2015]

<sup>11</sup>CTSI. op.cit.



## Complaints and enquiries received by premises type

For the first year the survey collected a breakdown about complaints and enquiries by premises type. Councils were asked to provide a breakdown of the complaints and enquiries received by premises type<sup>12</sup>.

Analysis has only been conducted where councils received complaints and enquiries, and were able to provide an accurate breakdown across all premise types for complaints and enquiries; 113 out of 114 councils were able to provide this detail.

In total 1,370 complaints and enquiries were received by these councils, with the largest proportion of complaints and enquiries being received about small retailers (41%), followed by independent newsagents (20%); the smallest proportion were received about market/car boot sale (1%).

Table 3: Proportion of complaints and enquires received by premise type	
Type of premise	Visits undertaken (%)
Small retailer	41
Independent newsagent	20
Off licence	16
Private homes	6
Pub/club	3
National newsagent	2
Petrol station kiosk	2
Large retailer	2
Market/car boot sale	1
Other	6
<b>Base number of complaints and enquiries</b>	<b>1,379</b>
<i>Number of councils providing data</i>	<i>113</i>

## Visits by trading standards officers to premises

76% of all councils had undertaken visits to premises with trading standards officers in relation to underage sales – in total 6,757 visits were undertaken by councils in 2014/15.

If this figure is used as an indication of the likely picture in non-responding councils, this would mean an estimated total of around 7,700 visits in relation to under-age sales from retail premises would have been made by trading standards officers in England in 2014/15.

## Visits by trading standard officers by premises type

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

<sup>12</sup>For guidance on definitions of premises type please see annex 1. Please note that where "other" types of premises are referred to throughout this report this could include café, leisure facilities and any other type of premises not covered by the main categories.

Analysis has only been conducted where councils undertook visits, and were able to provide an accurate breakdown across all premise types for visits by trading standards officers; 112 out of 114 councils were able to provide this detail.

In total 5,185 visits were undertaken by these councils, with the largest proportion of visits being undertaken at small retailers (43%), followed by off-licences (22%); the smallest proportion were undertaken at private homes (1%).

In comparison to 2013/14:

- Significantly more small retailers were visited (43% compared to 36%).
- Significantly fewer off licences (22% compared to 29%).
- Significantly fewer large retailers (5% compared to 6%).
- Significantly more petrol station kiosks (5% compared to 2%).
- Significantly more markets/car boot sales (2% compared to 1%).

Table 4: Proportion of visits by trading standards officers by premise type	
Type of premise	Visits undertaken (%)
Small retailer	43%
Off licence	22%
Independent newsagent	16%
Large retailer	5%
Petrol station kiosk	5%
National newsagent	2%
Pub/club	2%
Market/car boot sale	1%
Private homes	1%
Other	2%
<b>Base number of complaints and enquiries</b>	<b>4,829</b>
<i>Number of councils providing data</i>	<i>112</i>

### Conducting test purchase operations with volunteer young persons

76% of all councils carried out test purchase operations at retail premises with volunteer young persons.

Of those conducting work around under-age sales, 15% of councils were engaged in under-age sales activities, but not carrying out surveys with volunteer young persons in test purchase operations in premises. For these (22 councils), the most frequently cited reasons for this was a lack of intelligence and lack of overall staff resource (seven councils for both respectively). The following reasons were stated by at least one council:

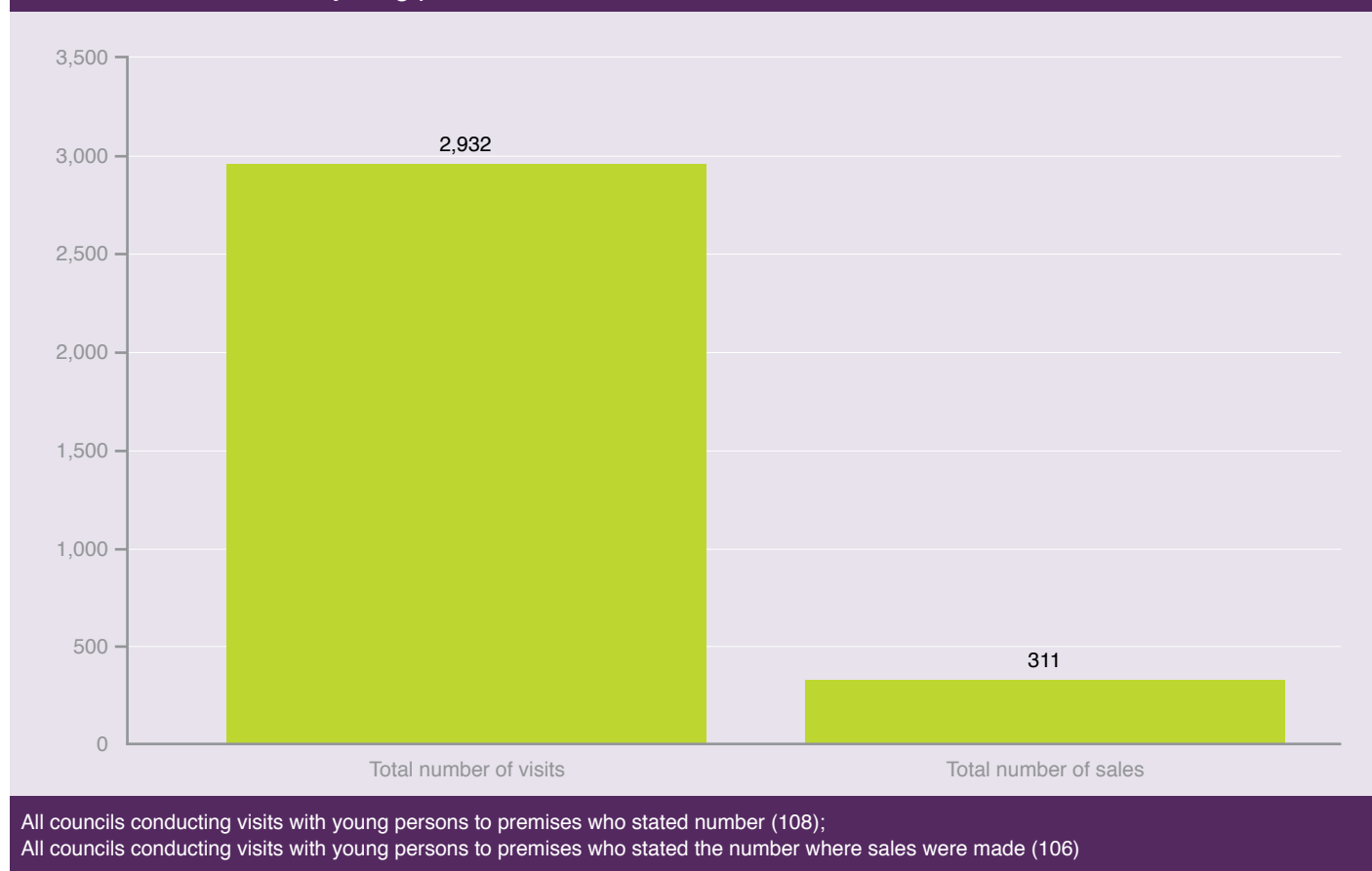
- Staff resource directed at other underage sales activities.
- Unable to recruit volunteers.
- Financial resource was directed at other under-age sales activities.
- Lack of financial resource overall.

- Practical issues associated with compliance with the Better Regulation Delivery Office (BRDO) code<sup>13</sup>.

### 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 under-age test purchase operations by volunteer young persons and illegal sales. The charts below provide a summary of the number of test purchase operations and illegal sales made at retail premises.

**Figure 2: Number visited by volunteer young persons and number at which under-age sales of cigarettes were made to volunteer young persons**



### Outcome of visits to retail premises with volunteer young persons

#### Visits conducted

108 out of 114 councils who had conducted visits to premises with volunteer young persons supplied the number of premises visited; this was a total of 2,932.

If this figure is used as an indication of the likely picture in non-responding councils, this would mean an estimated total of around 3,400 premises across England would have been visited by volunteer young persons in the conduct of test purchase operations in 2014/15.

<sup>13</sup>Better Regulation Delivery Office, Age Restricted Products and Services: A Code of Practice for Regulatory Delivery, 2014

### Number of visits to premises resulting in illegal sales

106 out of 114 councils were able to report the number of visits with volunteer young people where sales had occurred. Of those able to provide detail, all reported that cigarettes or tobacco products had been sold in at least one premises; cigarettes were sold to under-age young persons at a median of two premises and a total of 311 premises.

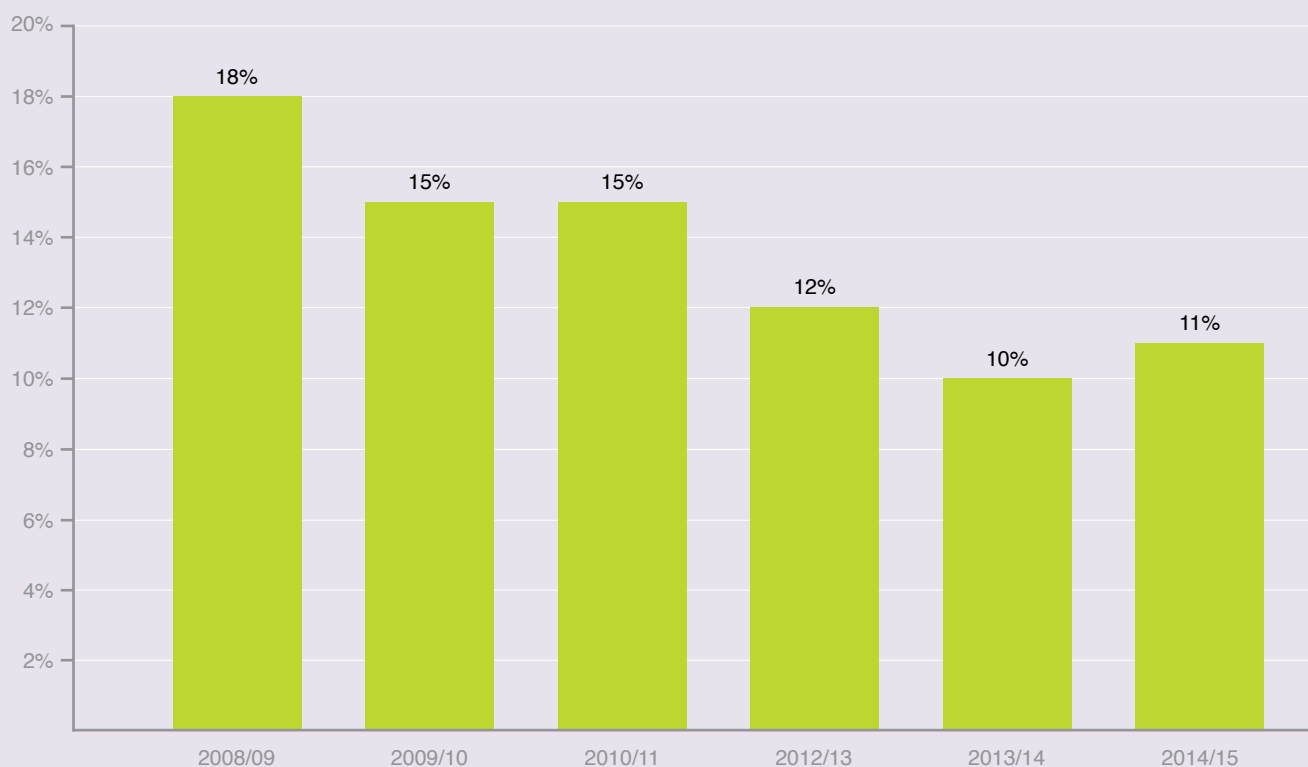
If this figure is used as an indication of the likely picture in non-responding councils, this would mean an estimated total of around 315 premises across England would have been detected making illegal sales of tobacco products to under-age young persons in 2014/15.

### Proportion of visits to premises resulting in illegal sales

105 councils provided data on both the number of premises visited and the number at which cigarettes were sold to under-age young persons. Illegal sales of cigarettes occurred in 11% of test purchases at premises.

The sales rate has significantly decreased from a high of 18% in 2008/09 to the current rate in 2014/15 of 11%.

Figure 3: Percentage of visits to premises by volunteer young persons resulting in illegal sales, in 2008/09, 2009/10, 2010/11, 2012/13, 2013/14 and 2014/15



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)

## Types of premises

Councils were asked to provide a breakdown of the types of premises<sup>14</sup> 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; 95 councils out of 114 were able to provide this detail.

For these councils, in total 2,432 visits were undertaken by volunteer young persons, with the largest proportion of visits being conducted at small retailers (42%) and the fewest being undertaken at private homes (no visits).

In comparison to 2013/14 there was:

- A significant decrease in the number of visits to independent newsagents (24% to 21% of all visits).
- A significant increase in visits to national newsagents (from 2% to 3% of all visits).
- A significant decrease in visits to private homes (from less than 0.5% of all visits to no visits).
- A significant decrease in visits to other premises (from 3% to 2% of all visits).

Type of premise	Visits undertaken (%)
Small retailer	42
Independent newsagent	21
Off licence	20
Large retailer	6
Petrol station kiosk	5
National newsagent	3
Market/car boot sale	<0.5
Pub/club	<0.5
Private homes	0
Other	2
<b>Base number of visits</b>	<b>2,432</b>
<i>Number of councils providing data</i>	<i>95</i>

Although the largest proportion of visits resulting in under-age sales was from markets/car boot sales (25%), only four visits were conducted to this type of premise. Similarly, no sales occurred at pubs/clubs and private homes; however only three visits were undertaken at pub clubs, and no visits to private homes.

Where a greater number of visits were undertaken, petrol station kiosks and independent newsagents had the greatest proportion of sales (15% respectively for both); national newsagents had the smallest proportion of sales (7%).

<sup>14</sup>For guidance on definitions of premises type please see annex 1

Table 6: Proportion of visits resulting in illegal sales by type of premise

Type of premise	Number of sales	Number of visits undertaken	Percentage of sales (%)
Market/car boot sale	1	4	25
Petrol station kiosk	19	125	15
Independent newsagent	76	508	15
Small retailer	104	1033	10
Large retailer	12	147	8
Off licence	40	493	8
National newsagent	5	69	7
Pub/club	0	3	0
Private homes	0	0	0
Other	7	50	14
<i>Number of councils providing data</i>		95	

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

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

All councils who had undertaken visits in relation to under-age sales (76% of all councils) were asked about actions taken as a result of under-age sales activity.

Of councils who had undertaken activity in relation to under age sales, 63% stated that action had been taken by their council as a result of a breach to the Children's and Young Persons Act 1933 (as amended), between 1 April 2014 to 31 March 2015. This equates to 57% of all councils.

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

Respondents who had taken action were asked to provide details of the types of actions that had been taken. Of those who had taken action, and could provide detail on actions taken (82 out of 86 councils), verbal or written warnings were the most common type of action to be taken by councils (69%).

Table 7: In relation to all under-age 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	82
Simple cautions issued	43	2	82

### Prosecutions relating to the 1933 Act (as amended)

Of the councils that had undertaken action (82 councils), 19% had taken formal legal action. The median number of prosecutions was one per council, with 16 prosecutions in total.

16 councils were able to provide detail on the outcomes of prosecutions. Two councils stated that one or more of their prosecution cases against a business had ended in a conviction (a total of two convictions, with a median average of one per council).

7 councils provided detail on the number of convictions of individuals resulting from prosecution cases – with 12 convictions of individuals, and a median average of two convictions per council.

No business convictions were of repeat offenders. One council convicted one individual as a repeat offender.



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

7 councils, out of the 11 who reported a prosecution, stated that magistrates had imposed a fine as a result of one or more of these convictions. The majority of fines imposed were £500 or less (60%). Table 8 below depicts the findings.

Table 8: Level of fine, as a result of fine being imposed by the magistrate's court	
Level of fine	Percentage of fines
Up to £500	60
£501 – £1,000	27
£1,001 – £1,500	7
£1,501 – £2,000	7
£2,001 – £2,500	0
<b>Total number of fines</b>	<b>15</b>

*All authorities that knew the level of fines for some of their convictions (15)*

### Restricted sales and premises orders

No restricted sales or premises orders were approved.

### Alternative sanctions

19% of councils imposed “alternative sanctions” for example mandatory attendance on a training course, with a median average of two per council and a total of 85.

## 6 Illicit tobacco products

The recent strategy *Tackling illicit tobacco: From Leaf to Light* published by HMRC and Border Force (BF) (2015)<sup>15</sup> succinctly summarises the impact of tobacco smuggling:

*“Tobacco smuggling costs over £2 billion in lost revenue each year. It undermines legitimate business and is dominated by internationally organised criminal groups often involved in other crimes such as drug smuggling and people trafficking”.*

There is a commitment from HMRC and BF to tackle the problem at all points in the supply chain from production to retail. Focussing on the retail supply of illicit products, during 2014, 81 Trading Standards Services across England participated in Operation Henry<sup>16</sup>.

This Operation was one of a number of projects designed to enhance local tobacco control activities funded by the DH through arrangements with CTSI. 67 of the 81 participating services made seizures of illicit product totalling just under 1.9 million genuine non UK duty paid cigarettes and just over 600,000 cheap white cigarettes. The total value of the seized tobacco products (inclusive of hand-rolling tobacco (HRT)) was just over £750,000.

The following data have been collected in consultation with HMRC; this represents an expanded collection providing greater detail relating to brands and price as requested by HMRC. It does not include data relating to seizures made during Operation Henry, but does include data relating to the outcomes of that Operation.

### Findings

94% of all councils conducted activities in relation to illicit tobacco products<sup>17</sup>.

#### Illicit tobacco product strategies

73% 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

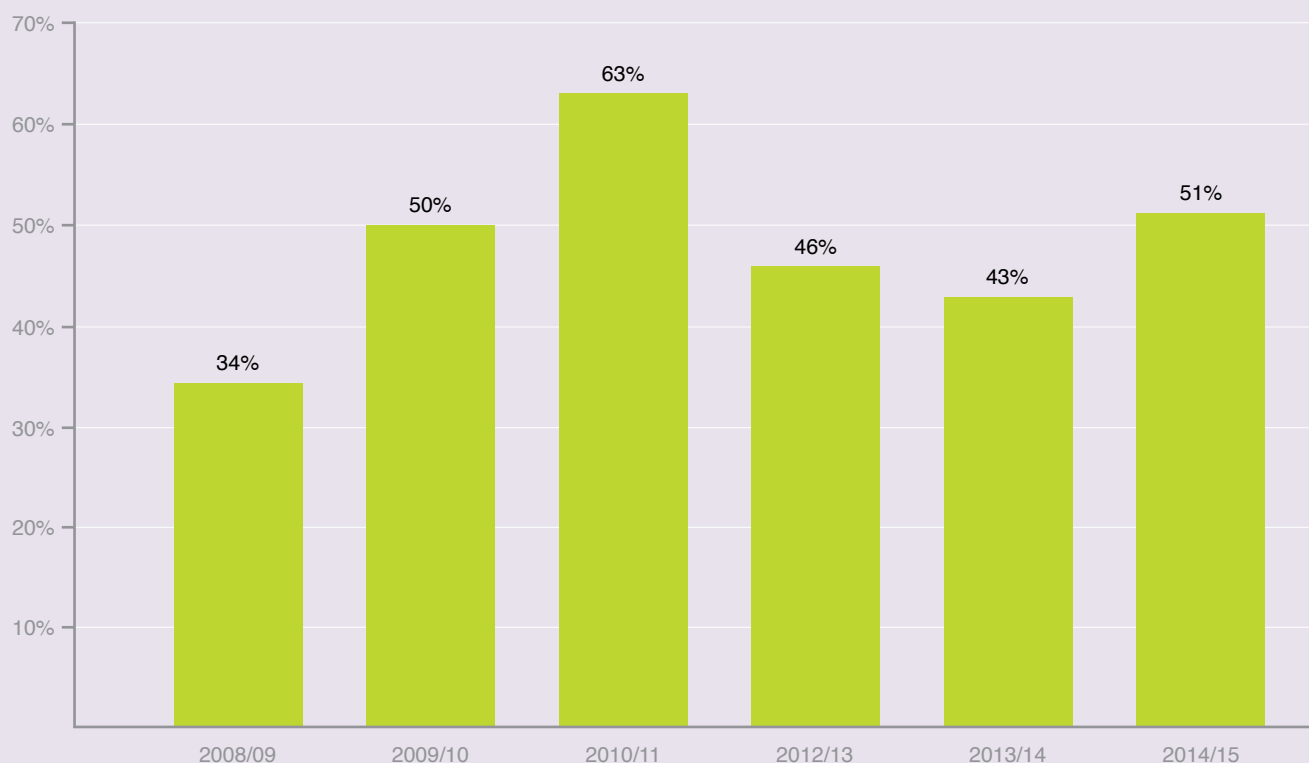
51% of all councils had undertaken joint operations with HMRC as part of their activity in relation to illicit tobacco products.

<sup>15</sup>Tackling Illicit tobacco from Leaf to Light published by HMRC & Border Force available online at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/418732/Tackling\\_illicit\\_tobacco\\_-\\_From\\_leaf\\_to\\_light\\_\\_2015\\_.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418732/Tackling_illicit_tobacco_-_From_leaf_to_light__2015_.pdf) [ accessed 13 August 2015]

<sup>16</sup>CTSI. op.cit

<sup>17</sup>Illicit Tobacco is described as product that has not had the duty paid on it or it having been smuggled or illegally produced. It includes cigarettes and hand rolling tobacco etc.

**Table 9: Has your authority undertaken any joint operations with HMRC in relation to the supply of illicit products?**



Year 2008/09 (101), Year 2009/10 (124), Year 2010/11 (131), Year 2012/13 (146), Year 2013/14 (148), Year 2014/15 (150)

## Complaints and enquiries

82% of all councils had dealt with complaints and enquiries in relation to the supply of illicit tobacco products.

In total 3,580 complaints and enquiries were received, with a median average of nine per authority. If this figure is used as an indication of the likely picture in non-responding councils, this would have meant an estimated total of around 3,800 complaints and enquiries about illicit tobacco products would have been received in England in 2014/15.

Matched sample analysis indicated there was a statistically significant increase in the mean average number of complaints and enquiries received from 23 in 2013/14 to 29 in 2014/15<sup>18</sup>.

<sup>18</sup>A paired samples t test revealed a statistically reliable difference between the mean average number of complaints and enquiries received in 2013/14 (mean = 23.17, standard deviation = 28.5) and 2014/15 (mean = 28.86, standard deviation = 34.6);  $t(109) = 2.61$ ,  $p < 0.5$ .

## Complaints and enquiries received by premises type

Councils were asked to provide a breakdown of the complaints and enquiries received by premises type<sup>19</sup>.

Analysis has only been conducted where councils were able to provide an accurate breakdown across all premise types for complaints and enquiries received by trading standards officers; 124 of 131 councils were able to provide this detail.

In total 3,272 complaints and enquiries were received by these councils, with the largest proportion of complaints and enquiries being received about small retailers (43%), followed by private homes (18%); the smallest proportion were received about large retailers, petrol station kiosks and national newsagents (1% for each).

In comparison to 2013/14 there were:

- Significantly more complaints and enquiries received about small retailers (43% compared to 40% of all complaints and enquiries).
- Significantly fewer complaints and enquiries received about private homes (18% compared to 22% of all complaints and enquiries).
- Significantly more complaints and enquiries received about independent newsagents (10% compared to 8% of all complaints and enquiries).
- Significantly fewer complaints and enquiries received about off licences (9% compared to 13% of all complaints and enquiries).
- Significantly more complaints and enquiries received about other premises (10% compared to 8% of all complaints and enquiries).

Table 10: Proportion of complaints and enquires received by premise type

Type of premise	Complaints and Enquiries (%)
Small retailer	43
Private homes	18
Independent newsagent	10
Off licence	9
Pub/club	5
Market/car boot sale	2
Large retailer	1
Petrol station kiosk	1
National newsagent	1
Other	10
<b>Base number of complaints and enquiries</b>	<b>3,272</b>
<i>Number of councils providing data</i>	<i>124</i>

<sup>19</sup>For guidance on definitions of premises type please see annex 1. Please note that where "other" types of premises are referred to throughout this report this could include café, leisure facilities and any other type of premises not covered by the main categories.

## Visits by trading standards officers

81% of all councils had visited premises in relation to illicit tobacco products; a total of 6,009 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 6,500 premises would have been visited across England in 2014/15 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 premise types for visits by trading standards officers; 123 out of 131 councils were able to provide this detail.

In total 5,311 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 (53%), followed by off licences (17%); the smallest proportion were undertaken at petrol station kiosks, national newsagent and large retailers (1% for each).

In comparison to 2013/14 there were:

- Significantly less visits undertaken by trading standards officers to off licences (17% compared to 19% of all visits undertaken).
- Significantly more visits undertaken by trading standards officers to independent newsagents (16% compared to 12% of all visits undertaken).
- Significantly less visits undertaken by trading standards officers to private homes (3% compared to 4% of all visits undertaken).
- Significantly less visits undertaken by trading standards officers to national newsagents (1% compared to 3% of all visits undertaken).
- Significantly less visits undertaken by trading standards officers to other premises (4% compared to 7% of all visits undertaken).

Table 11: Proportion of visits by trading standards officers by premise type

Type of premise	Visits undertaken (%)
Small retailer	53
Off licence	17
Independent newsagent	16
Private homes	3
Pub/club	2
Market/car boot sale	2
Petrol station kiosk	1
National newsagent	1
Large retailer	1
Other	4
<b>Base number of visits</b>	<b>5,311</b>
<i>Number of councils providing data</i>	<i>123</i>

### Seizure of illicit tobacco products

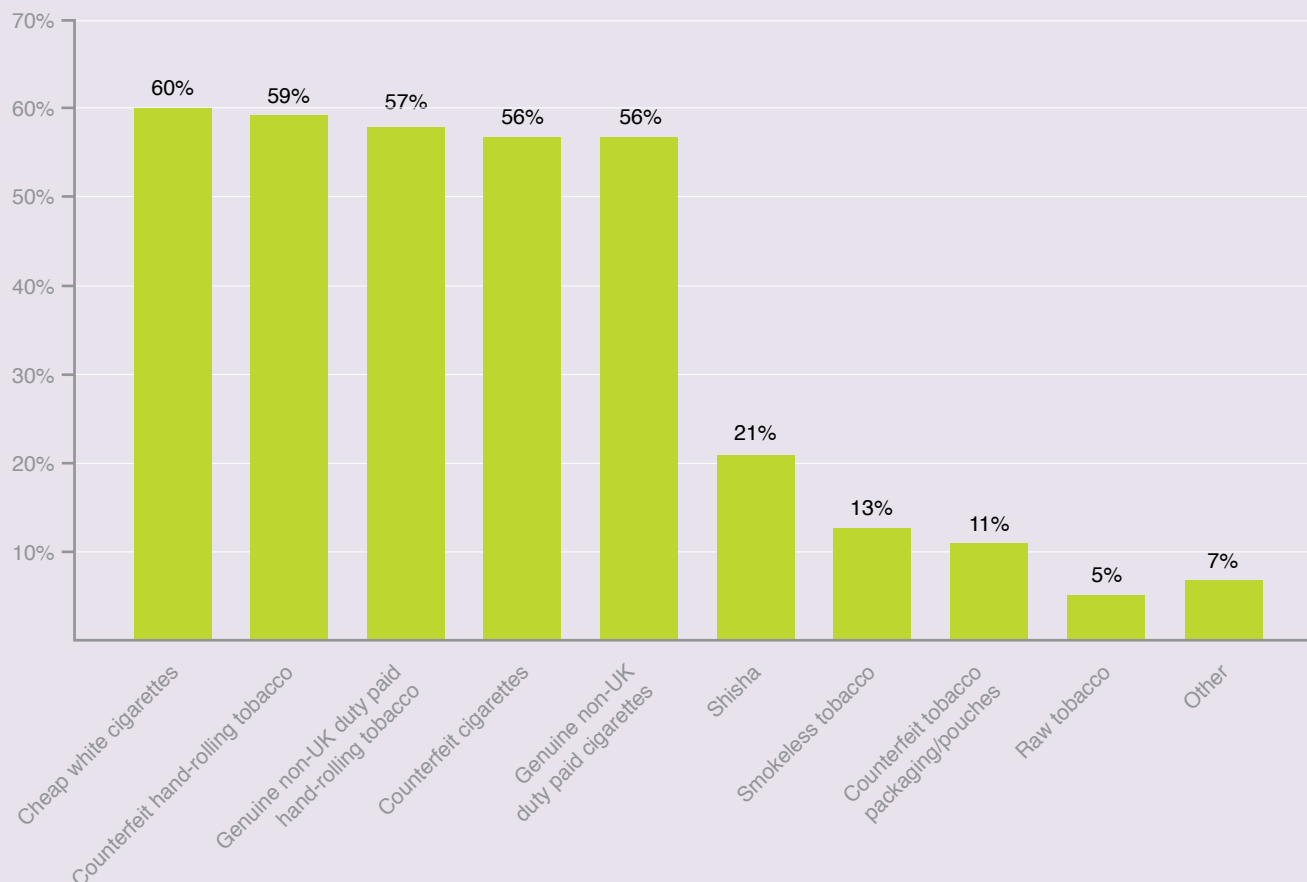
82% of all councils undertaking work in relation to illicit tobacco products had seized illicit tobacco products.

99 out of 141 councils were able to provide detail across each illicit tobacco product on the amount seized; the three most frequently seized illicit tobacco products were:

- Cheap white cigarettes were seized by 60% of councils, with a median average 7,960 sticks per council.
- Counterfeit hand-rolling tobacco were seized by 59% of councils, with a median average of 10kg per council.
- Genuine non-UK duty paid hand-rolling tobacco was seized by 57% of councils, with a median average of 13kg per council.

Seized by the smallest proportion of councils was raw tobacco (by 5%, with a median average of 5kg per council).

Figure 4: Percentage of councils seizing illicit tobacco, by type of product



All councils providing detail on all products seized (99)

### Cheap whites cigarette brands

Of the 76 councils<sup>20</sup> who stated that they had seized cheap white cigarettes, the four brands that were most frequently reported being seized were:

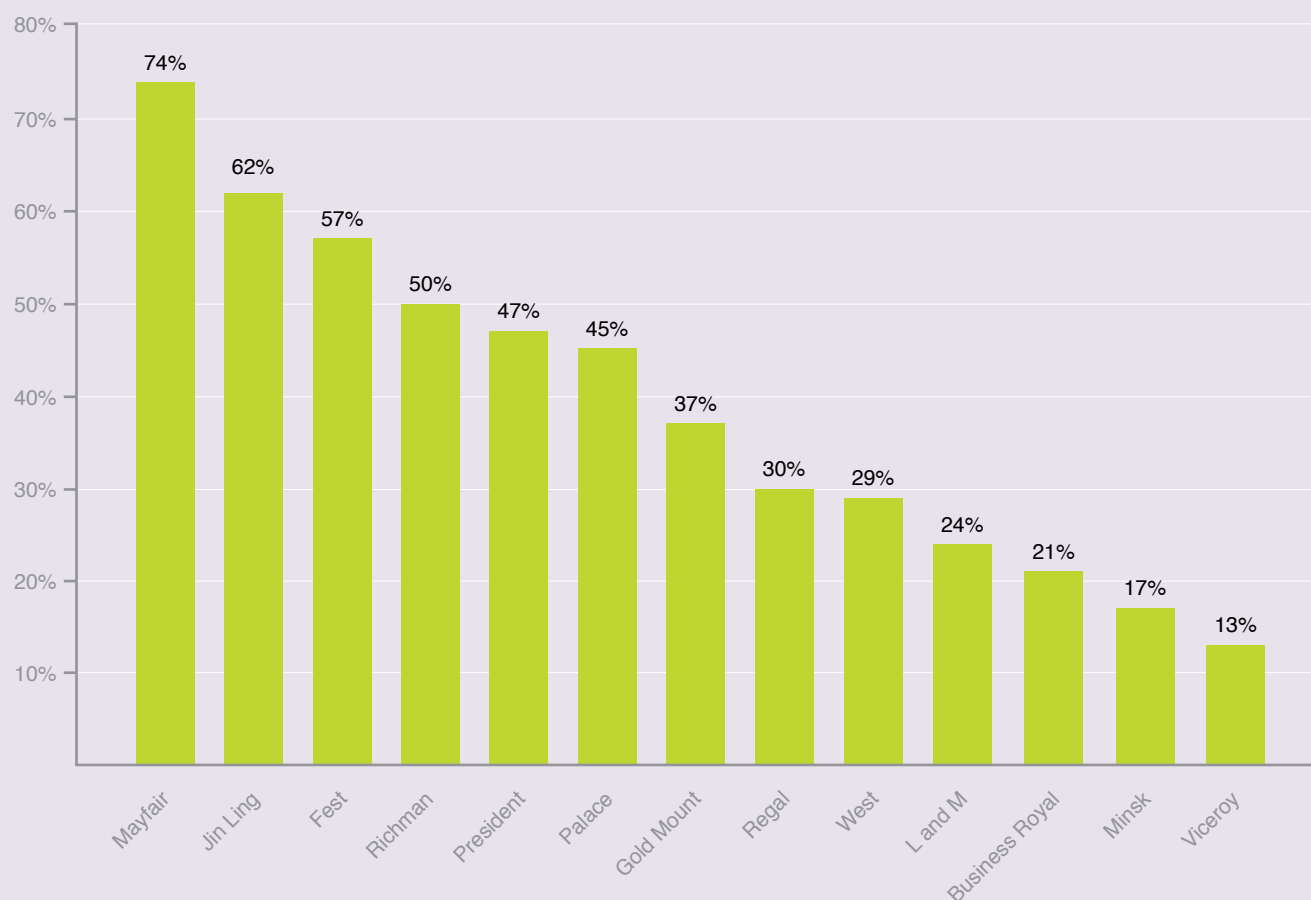
- Mayfair (74% of councils).
- Jin Ling (62% of councils).
- Fest/Pect (57% of councils).
- Richman (50% of councils).

L & M, Minsk and Viceroy were not options on the list provided to councils, but were each mentioned by 10 or more councils within the “other” category; it was therefore backcoded.

<sup>20</sup>This represents all councils all councils stating they seized, not just those who could provide data on the seizure of all products.



Figure 5: Cheap white cigarette brands seized by 10 or more councils<sup>21</sup>



All councils who reported seizing cheap white cigarettes (76)

### Any illicit cigarettes seizures: average intended sales price

All respondents who reported seizures of illicit cigarettes were asked to select the average intended sale price of the cigarettes seized.

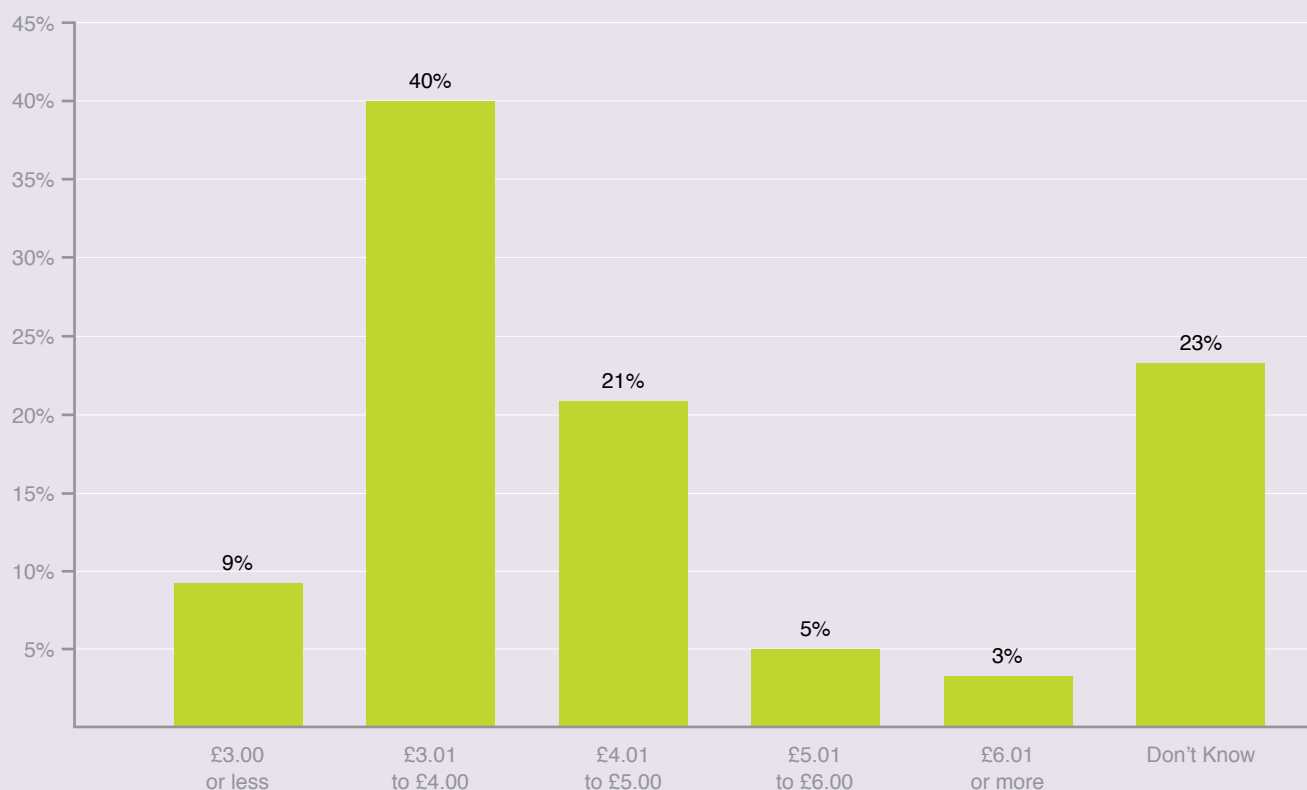
Two fifths of councils (40%) reported that the average intended sales price was £3.01 to £4.00, with just over a fifth (21%) reporting the average intended sales prices was £4.01 to £5.00.

The smallest proportion of councils (3%) reported that the average intended sales price was £6.01 or greater.

Just under a quarter of councils (23%) did not know the average intended sales price of the seized illicit cigarettes.

<sup>21</sup>Please note this relates to those cheap whites cigarettes most frequently selected or stated under the category "other".

**Figure 6: On average, what was the intended sales price for illicit cigarettes seized between the 1 April 2014 and 31 March 2015?**



All councils that reported seizing cheap whites cigarettes, counterfeit cigarettes or genuine non-UK duty paid cigarettes (110)

### Illicit cigarette seizures: countries of origin

Respondents who reported that illicit cigarettes had been seized were asked to provide detail on the two countries that these illicit cigarettes most commonly originated from.

The two countries most frequently mentioned were Poland (42 councils) and Russia (23 councils).

### Illicit hand-rolling tobacco brands

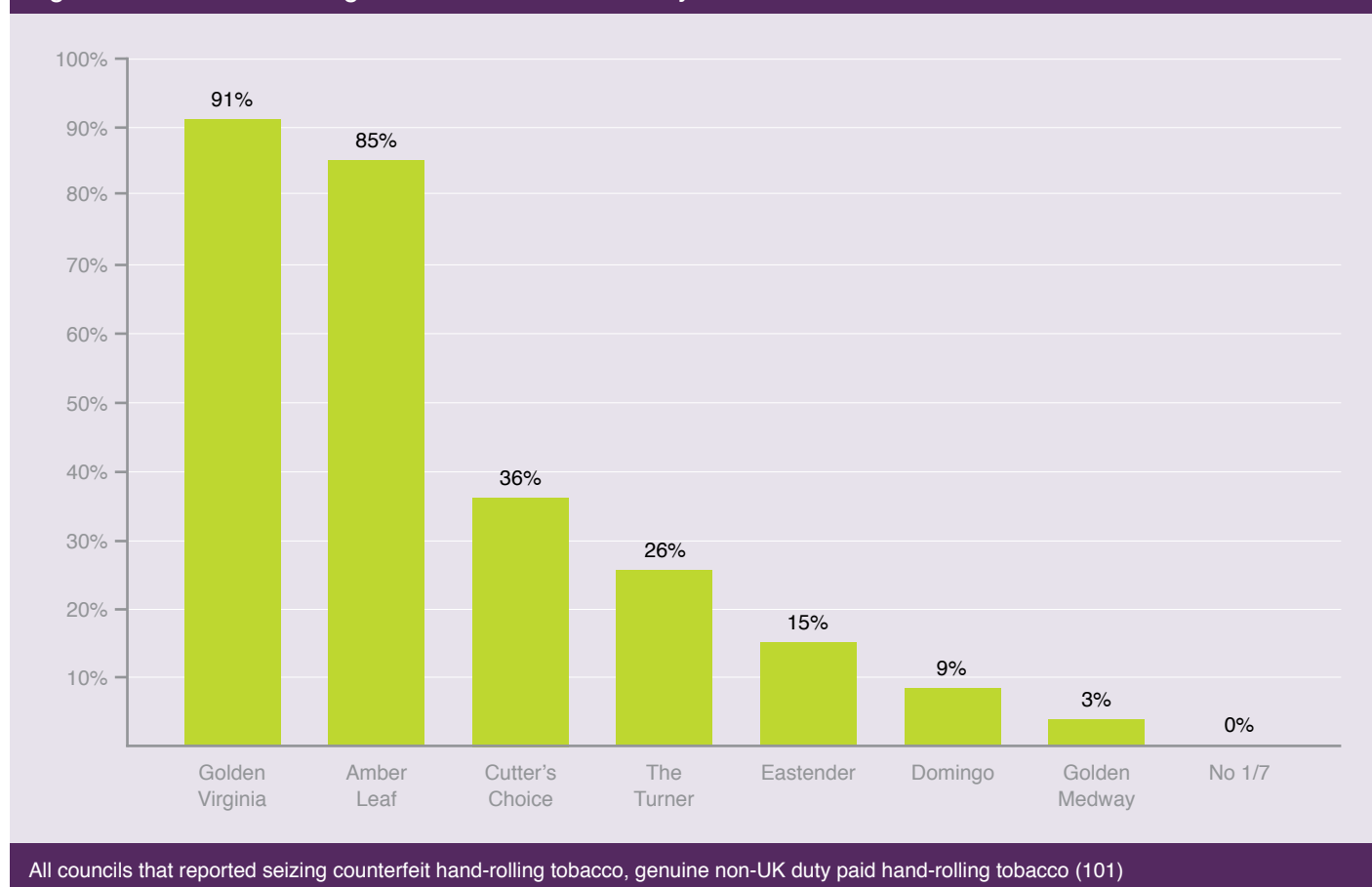
Of the 101 councils<sup>22</sup> who stated that they had seized illicit hand-rolling tobacco, the three brands that were most frequently reported being seized were:

- Golden Virginia (92% of councils).
- Amber Leaf (85% of councils).
- Cutters Choice (36% of councils).

Other types of illicit hand-rolling tobacco were mentioned by 20% of councils.

<sup>22</sup>This represents all councils stating they seized, not just those who could provide data on the seizure of all products.

Figure 7: Illicit hand-rolling tobacco brands seized by councils



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

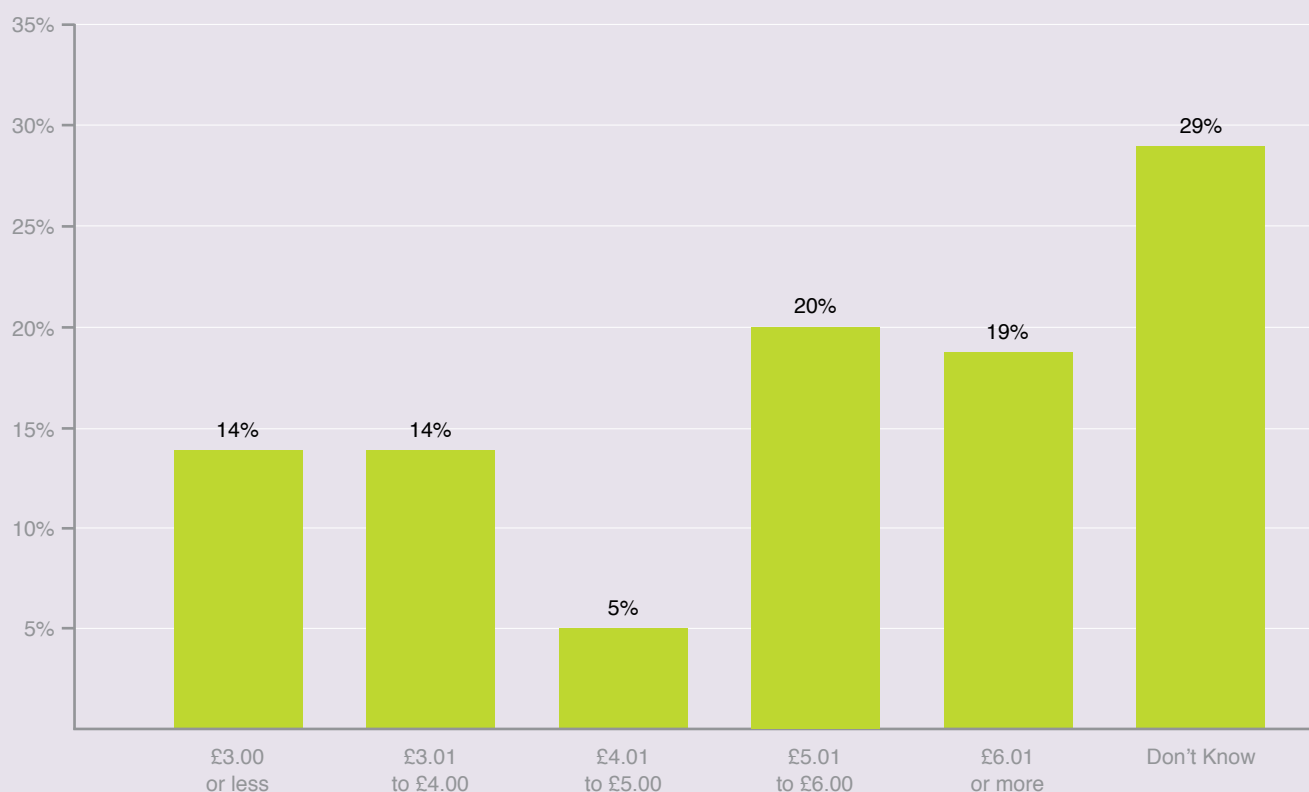
All respondents who reported seizures of non-UK duty paid hand-rolling tobacco and counterfeit hand-rolling tobacco were asked to select the average intended sale price of the hand-rolling tobacco seized.

29% of councils did not know the average intended sales price of the seized hand-rolling tobacco. Of the remaining councils, the greatest proportion (20%) selected £7.01 to £8.00 followed by 19% selecting £8.01 or more.

The smallest proportion of councils (5%) reported that the average intended sales price was £6.01 to £7.00.

In 2014/15 significantly less councils did not know the average cost of illicit hand-rolling tobacco than in 2013/14 (29% compared to 47% respectively).

**Figure 8: On average, what was the intended sales price for illicit hand-rolling tobacco seized between the 1 April 2014 and 31 March 2015?**



All councils that reported seizing non-UK duty hand-rolling tobacco or counterfeit hand-rolling tobacco (101)

### Illicit hand-rolling tobacco seizures: countries of origin

Respondents who reported that hand-rolling tobacco had been seized were asked to provide detail on the two countries that this illicit hand-rolling tobacco most commonly originated from.

The two countries most frequently mentioned were Poland (27 councils) and Belgium (16 councils).

### Actions taken in relation to illicit tobacco products

All councils who had undertaken activity in relation to illicit tobacco products (138 councils) were asked details about what, if any, types of actions had been undertaken.

135 councils could provide detail on actions taken; written or verbal warnings were the most common type of action to be taken by councils (56%), followed by 28% issuing simple cautions.

Table 12: In relation to all illicit tobacco product 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)	<i>Base</i>
Written and verbal warnings	56	56	135
Simple cautions issued	28	28	135

### Prosecutions relating to illicit tobacco products

Of the councils that had provided detail on the number of actions taken (135), 50% had taken formal legal action. The median number of prosecutions was two per council, with 319 prosecutions in total.

17 out of 67 councils stated that one of their prosecutions ended in a business conviction by 31 March 2015 (a total of 31 convictions, with a median average of one conviction per council). Six councils reported that they convicted repeat offenders, with a total of ten repeat offenders being convicted and with a median of two repeat offenders per council.

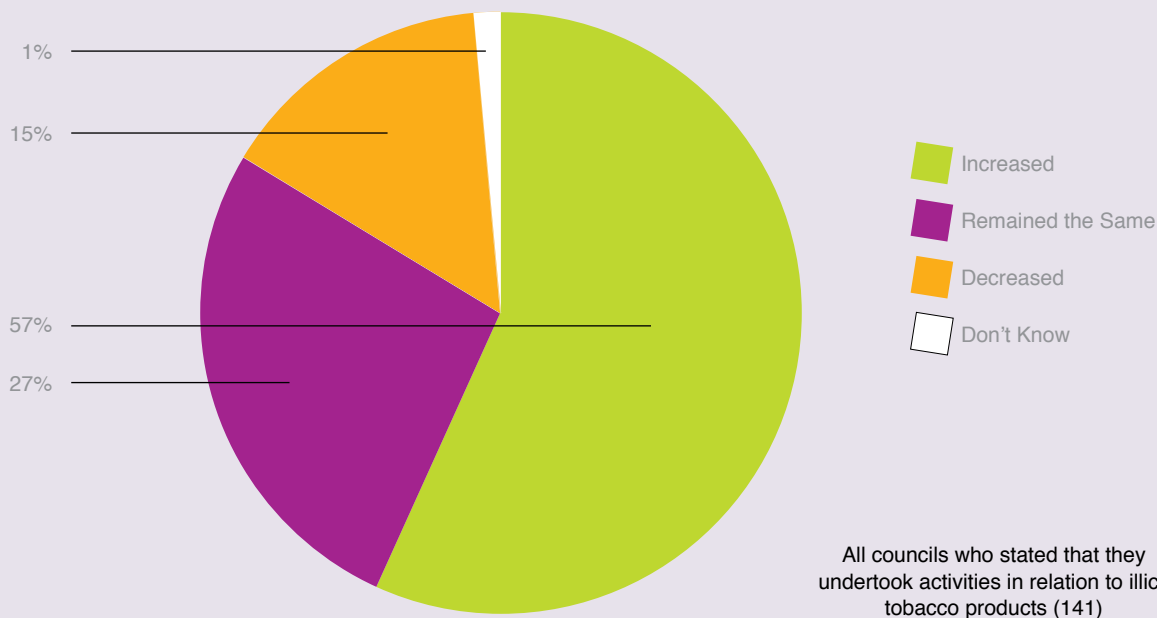
47 out of 67 councils stated that one of their prosecutions ended in a conviction of an individual by 31 March 2015 (a total of 185 convictions, with a median average of two convictions per council). Thirteen councils reported that they convicted repeat offenders, with a total of 25 repeat offenders being convicted and a median average of one individual repeat offender being convicted per council.

### Levels of activity in relation to illicit tobacco products

All councils undertaking activity in relation to illicit tobacco were asked if the number of officer hours spent on illicit tobacco control activities in the 2014 – 2015 financial year had increased, decreased or remained the same.

The majority (57%) stated that it had increased, with just over a quarter (27%) stating that it had remained the same, and 15% stating it had decreased. 1% did not know.

Figure 9: Thinking about the number of officer hours spent on illicit tobacco control activities in the 2014 – 2015 financial year in your opinion, do you feel that the number of officer hours spent on illicit tobacco control enforcement activities increased, decreased or remained the same?



### Actions taken in relation to operation henry

The 81 councils who participated in Operation Henry were asked to provide details about what, if any, types of actions had been undertaken in relation to the supply of illicit tobacco products in 2014 as part of Operation Henry.

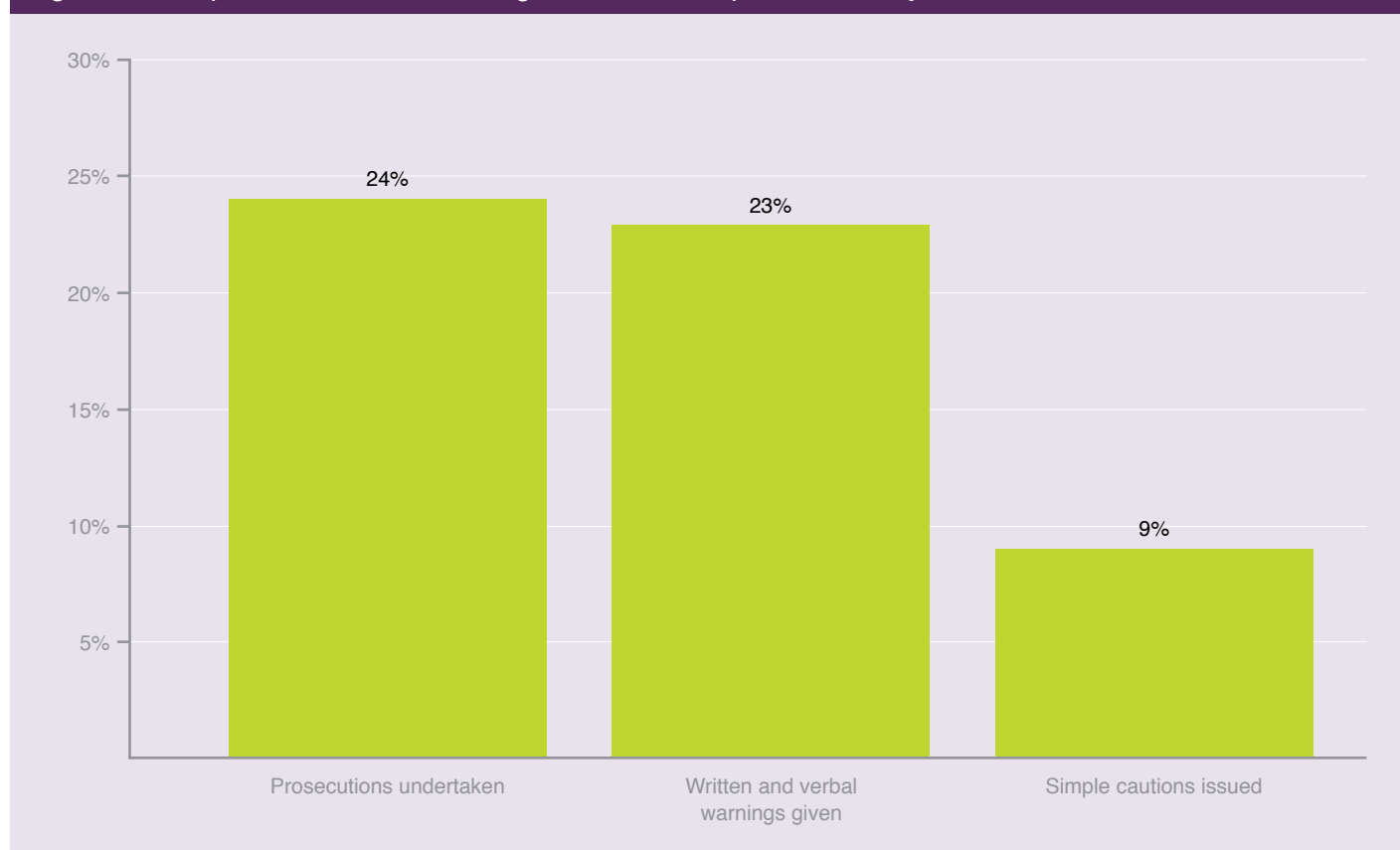
75 councils could provide detail on all actions taken; written or verbal warnings were the most common type of action to be taken by councils (23%), followed by 9% issuing simple cautions.

Table 13: In relation to all illicit tobacco product 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
Written and verbal warnings	23	2	75
Simple cautions issued	9	1	75

Of the councils that had provided detail on the number of actions taken (75 councils), 24% had taken formal legal action. The median number of prosecutions was one per council, with 77 prosecutions in total.

Figure 10: Proportion of councils taking action under Operation Henry



31 out of 33 councils could provide detail on the number of prosecutions that ended in a conviction under Operation Henry.

5 out of 31 councils stated that one of their prosecutions ended in a business conviction as a result of Operation Henry (a total of six convictions, with a median average of one conviction per council). Two councils reported that they convicted repeat offenders, with a total of two repeat offenders being convicted.

11 out of 31 councils stated that one of their prosecutions ended in the conviction of an individual as a result of Operation Henry (a total of 21 convictions, with a median average of two convictions per council). One council reported that they convicted repeat offenders, with a total of three repeat offenders being convicted.



## 7 Niche tobacco products

The *Tobacco Control Plan for England*<sup>23</sup> includes a commitment by Government to:

*“Continue to support the work being carried out by local trading standards authorities to detect and take action on niche and novel tobacco products which currently breach pack labelling or health warning legislation, or which evade duty”.*

Niche tobacco products include (for the purposes of this survey) smokeless tobacco which is consumed without burning the product, and can be used orally or nasally, tobacco blunts and shisha tobacco.

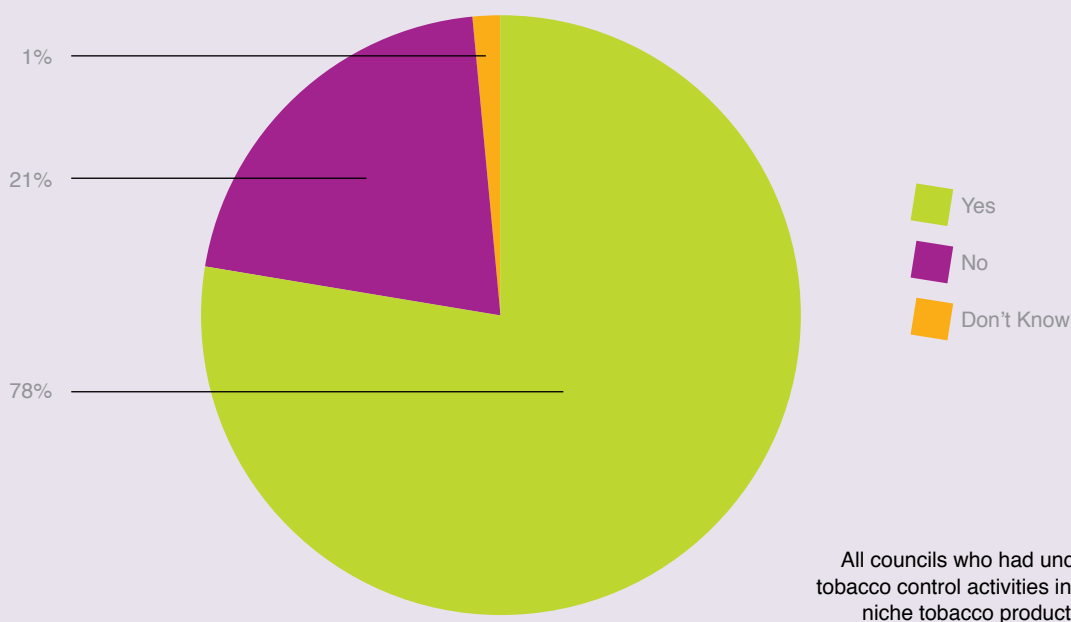
### Findings

45% of all councils had undertaken tobacco control activities in relation to niche tobacco products.

### Labelling of products

78% of councils undertaking work on niche tobacco products stated that they had detected niche tobacco products without appropriate labelling (health warnings) between 1 April 2014 and 31 March 2015.

Figure 11: Did your council detect any niche tobacco products without appropriate labelling (health warnings) between 1 April 2014 and 31 March 2015?



<sup>23</sup>DH, op.cit. pg26

### Types of niche tobacco products found

Councils who had detected niche tobacco products were asked to provide detail on the type and amount found where possible; forty three councils were able to provide data.

Of those able to provide detail across each tobacco product (43 councils) most frequently reported that they detected shisha (64%), followed by 55% detecting tobacco blunts and 39% smokeless tobacco.

On average where products were found a median of 13 kilograms of shisha was found, 108 blunts were detected and six kilograms of smokeless tobacco.

Table 14: Percentage detecting niche tobacco and median average amount of niche tobacco found

Type	Percentage detecting niche tobacco (%)	Amount (median average) niche tobacco found (those who detected)	Base
Shisha	64	13kg	43
Blunts	55	108 blunts	43
Smokeless tobacco	39	6kg	43

### Actions taken in relation to niche tobacco products

Of those who had detected niche tobacco products (52 councils), and could provide detail on actions taken (51 councils), written or verbal warnings were the most common type of action to be taken by councils (67%), followed by 14% that had issued simple cautions.

Table 15: In relation to all niche tobacco products, 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
Written and verbal warnings	67	2	51
Simple cautions issued	14	2	51

### Prosecutions relating to niche tobacco products

Of the councils that had provided detail on the number of actions taken (51), 10% had taken formal legal action. The median number of prosecutions was one per council, with 17 prosecutions in total.

Three councils stated that prosecutions had ended in a conviction, with four business convictions in total. Three councils also reported convictions of individuals, with four convictions in total. No repeat convictions were reported.

## 8 Electronic cigarettes (also known as Vapourisers)

Electronic cigarettes are currently regulated as consumer products, however, this situation will change from 20 May 2016 when the European Union Tobacco Products Directive (2014/40/EU)<sup>24</sup> known as the TPD, comes into effect in member states. From this point, electronic cigarettes containing up to 20mg/ml of nicotine will be regulated under the TPD, whereas devices containing more than 20mg/ml of nicotine will be categorised as a medicine. Any electronic cigarette manufacturer that wishes to market their product as a harm reduction or smoking cessation aid must have the device regulated as a medicine by the Medicines and Healthcare Products Regulatory Agency (MHRA).

Prevalence of electronic cigarette use in England is currently 18% and this has not increased since 2013<sup>25</sup>. The most common reason for using electronic cigarettes is to reduce health risks of smoking (by stopping smoking completely and or reducing smoking). Approximately 30% of attempts to stop smoking in the past year have involved electronic cigarettes, which is higher than the use of any other aid to cessation.

*The Smoking Drinking and Drug Use among young people in England*<sup>26</sup> report (2014) found that whilst 88% of 11 – 15 year olds were aware of electronic cigarettes, just over one fifth of 11 – 15 year old respondents had ever used electronic cigarettes and only 1% were regular users of the products.

From 1 October 2015, The Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations 2015<sup>27</sup> enter into force. These regulations will restrict the age of sale of nicotine inhaling products. In common with the restriction placed on tobacco products, the legal age of sale will be 18 years.

Trading Standards Services will have responsibility for monitoring business compliance with these new requirements, data will be collected in the next survey 2015 – 16.

### Findings

67% of all councils had undertaken tobacco control activities in relation to electronic cigarettes.

### Advice on electronic cigarettes

Councils were asked to select which groups they had provided advice to about electronic cigarettes in the period from 1 April 2014 to the 31 March 2015.

Of councils undertaking activities in relation to electronic cigarettes, 93% had provided advice, whilst 7% had not. 81% had advised retailers, followed by 52% advising consumers.

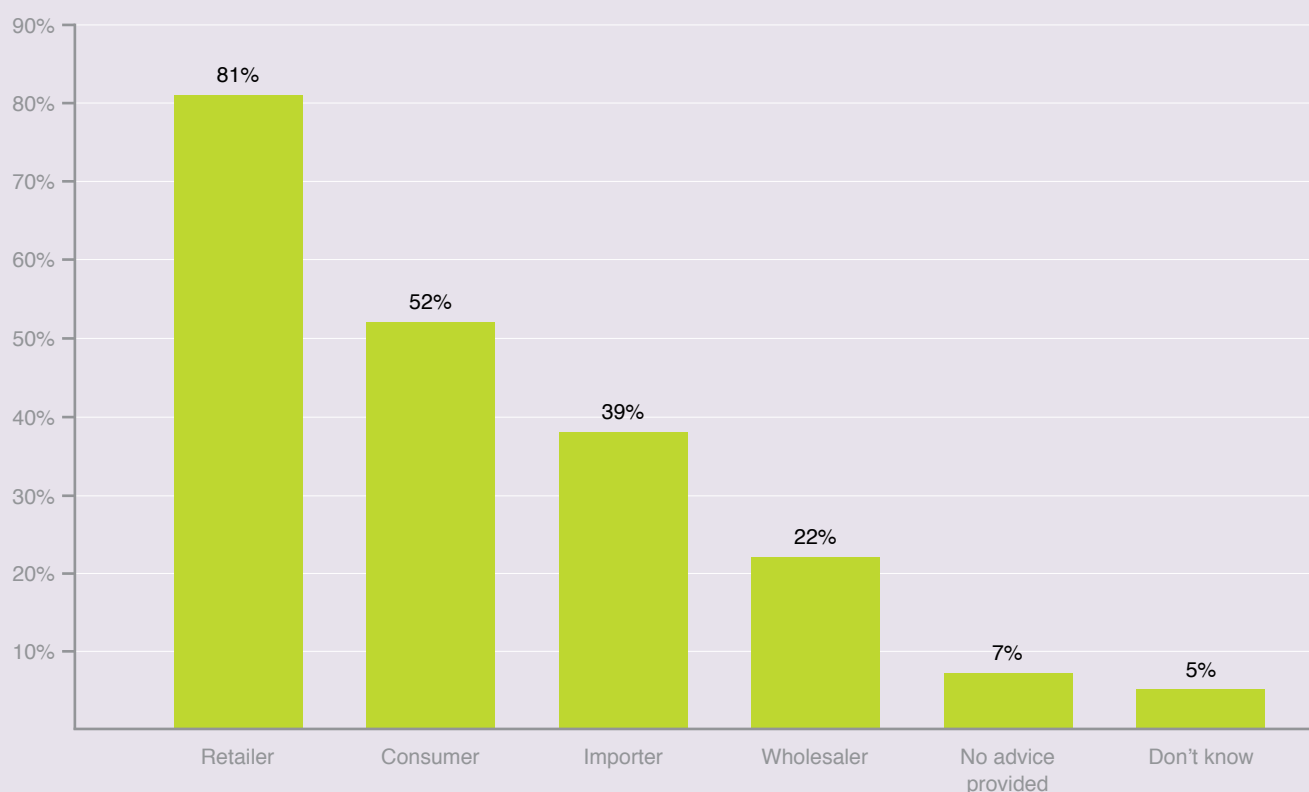
<sup>24</sup>Tobacco Products Directive (2014/40/EU) available online at: [http://ec.europa.eu/health/tobacco/products/index\\_en.htm](http://ec.europa.eu/health/tobacco/products/index_en.htm) [accessed online 15 July 2015]

<sup>25</sup>West R, Hajek P, McNeill A, Brown J, Arnott D (2015) Electronic cigarettes: what we know so far. A report to UK All Party Parliamentary Groups. [www.smokinginengland.info/reports/](http://www.smokinginengland.info/reports/) [accessed online 12 August 2015]

<sup>26</sup>Smoking Drinking and Drug Use among young people in England (2014) <http://www.hscic.gov.uk/catalogue/PUB17879/smok-drin-drug-young-peop-eng-2014-rep.pdf> [accessed 12 August 2015]

<sup>27</sup>The Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations 2015 available online at: <http://www.legislation.gov.uk/ukdsi/2015/9780111130568> [accessed 15 July 2015]

**Figure 12: Which of the following groups, if any, did your council provide advice to about electronic cigarettes in the 2014 – 2015 financial year (1 April 2014 – 31 March 2015)?**



All authorities undertaking tobacco control activities for electronic cigarettes (100)

Where authorities were able, they provided detail on the number of times advice was given. This is displayed in table 16.

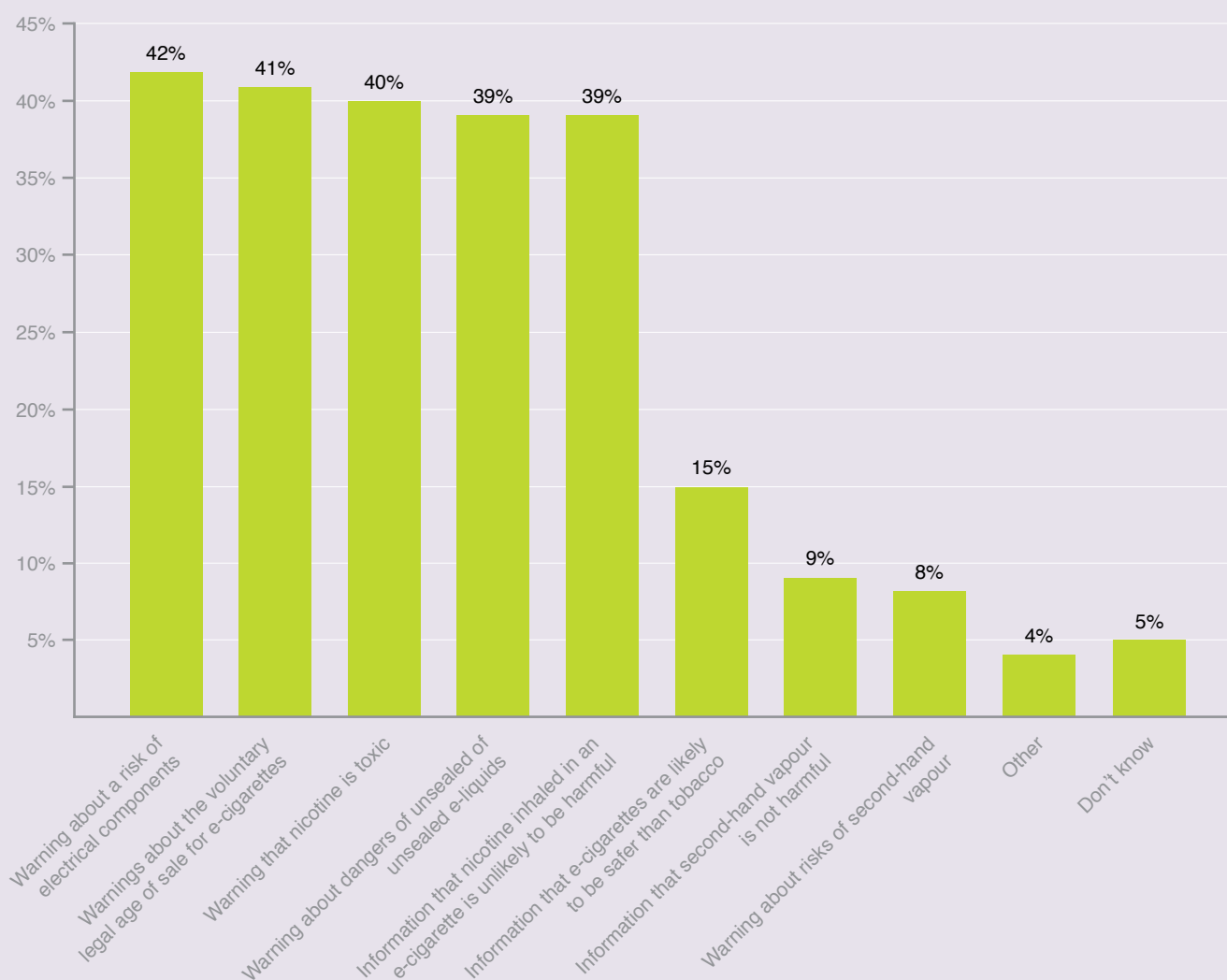
**Table 16: Detail of number of occasions that advice was provided to different business sectors for e-cigarettes**

Group	Total number of times advice provided	Median number of times advice provided per council	Base
Consumer	700	3	37
Retailer	1,339	4	62
Importer	42	2	16
Wholesaler	127	1	32

All councils who had provided advice on electronic cigarettes to consumers were asked to select which area they had provided advice on from 1 April 2014 to the 31 March 2015. Just over two thirds of councils (69%) provided warnings to consumers about the risk associated with electrical components, followed by just over half (52%) providing warnings about the voluntary legal age of sale for electronic cigarettes.

20% of councils provided “other” advice, which included the labelling of electronic cigarettes.

Figure 13: Which of the following advice, if any, did your council provide to consumers regarding electronic cigarettes in the 2014 – 2015 financial year (1 April 2014 – 31 March 2015)?



All councils who had provided advice to consumers on electronic cigarettes (52)

## 9 Reduced Ignition Propensity testing

The fires caused by smoking materials result in more deaths than any other type of fire<sup>28</sup>. Reduced Ignition Propensity (RIP) Cigarettes, also known as fire safer cigarettes, were introduced in November 2011. RIP cigarettes are required to meet fire safety standards<sup>29</sup> by passing rigorous tests<sup>30</sup>. All cigarettes in the EU must confirm to these standards.

The standard was introduced in order to reduce the incidence of fires and the resulting harm and loss of life caused by smoking particularly in the home environment. This aim is however undermined by the supply of illegal tobacco which does not comply with these standards.

This is the first time that testing data has been collected from Trading Standards Services. The following section outlines the testing commissioned in 2014 – 15 and provides a comparison between the test results for genuine and illegal tobacco products.

### Findings

123 councils provided data on whether they had undertaken tobacco control activities in relation to Reduced Ignition Propensity (RIP) testing in the financial year 2014 – 2015.

The vast majority (84%) had not, with only 16% stating that they had.

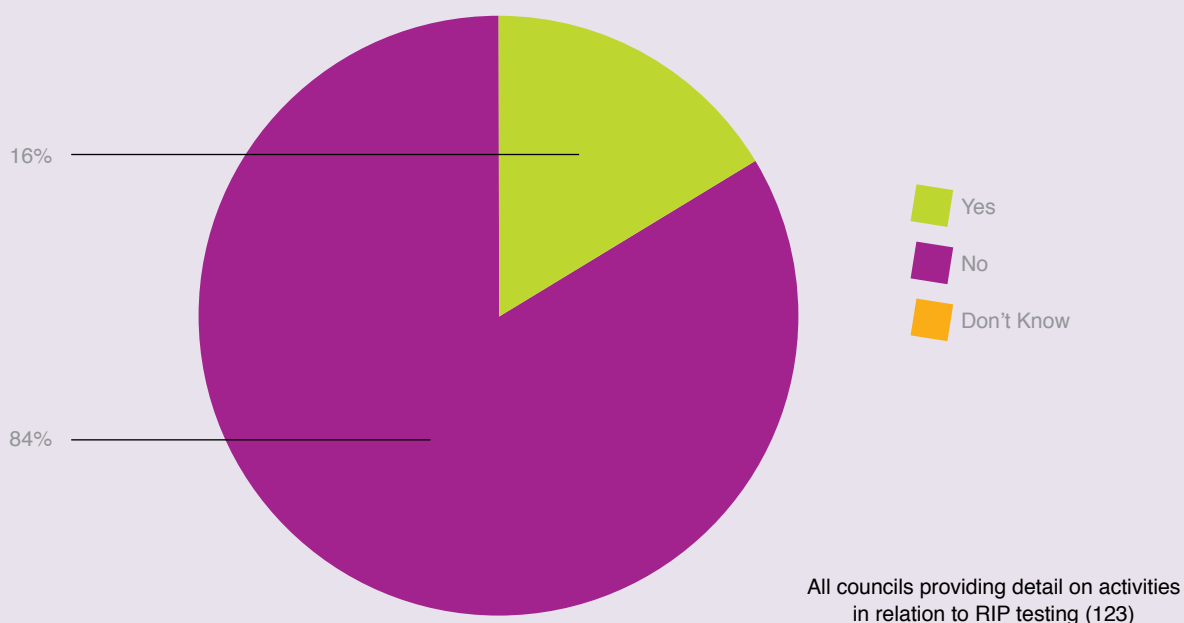
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<sup>28</sup>CFOA position statement May 2015: Illegal tobacco and fire safer cigarettes also known as Reduced Ignition Propensity cigarettes (RIP)

<sup>29</sup>British Standards Institution (2010) BS EN 16156 Cigarettes, Assessment of the ignition propensity: safety requirement London: British Standards Institution

<sup>30</sup>EN ISO International Standard (2010) EN ISO 12863 Standard test method for assessing the ignition propensity of cigarettes Geneva: International Organisation for Standardisation

Figure 14: Did your authority undertake tobacco control activities in relation to Reduced Ignition Propensity (RIP) testing in the financial year 2014 – 2015?



Of the 20 councils who stated they undertook RIP testing, only three had submitted samples of genuine cigarettes and 17 had submitted samples of illicit cigarettes between 1 April 2014 to the 31 March 2015.

Of the three who submitted samples of genuine cigarettes, three samples in total had been submitted (one per council) and one sample had failed.

Of the 17 who submitted samples of illicit cigarettes, 125 samples had been submitted, with a median average of two per council. In total 122, or 98% of all samples had failed.

## 10 Collaborative working

Collaborative working has never been so vital to the delivery of comprehensive tobacco control in local areas. Against a back drop of public sector cuts that have seen Trading Standards Services in England cut by an average of 40% over the lifetime of the 2010 – 2015 parliament and staffing levels fallen by approximately 45% since 2009<sup>31</sup>. This makes effective partnerships with colleagues in Public Health, HMRC, the Fire Service, the Police and others critical.

There is an expectation that resources for Trading Standards are unlikely to improve in the near future. A report commissioned by the CTSI *The Summer Budget 2015: the Impact on Trading Standards*<sup>32</sup> comments that:

*“Unfortunately, if past experience is anything to go by regulatory services and trading standards will once again take an even larger cut than the headline announcement by the Chancellor for public sector spending”.*

The data that follows indicates the partnerships that are in place; it does not however indicate whether these partnerships are effective.

### Findings

All councils were asked about their collaboration with other agencies in relation to tobacco control.

#### Local tobacco control activities

75% of councils stated that there was a local tobacco control or smoke free alliance in their local authority area in 2014 – 2015, with 15% stating that there was not and 9% stating they did not know.

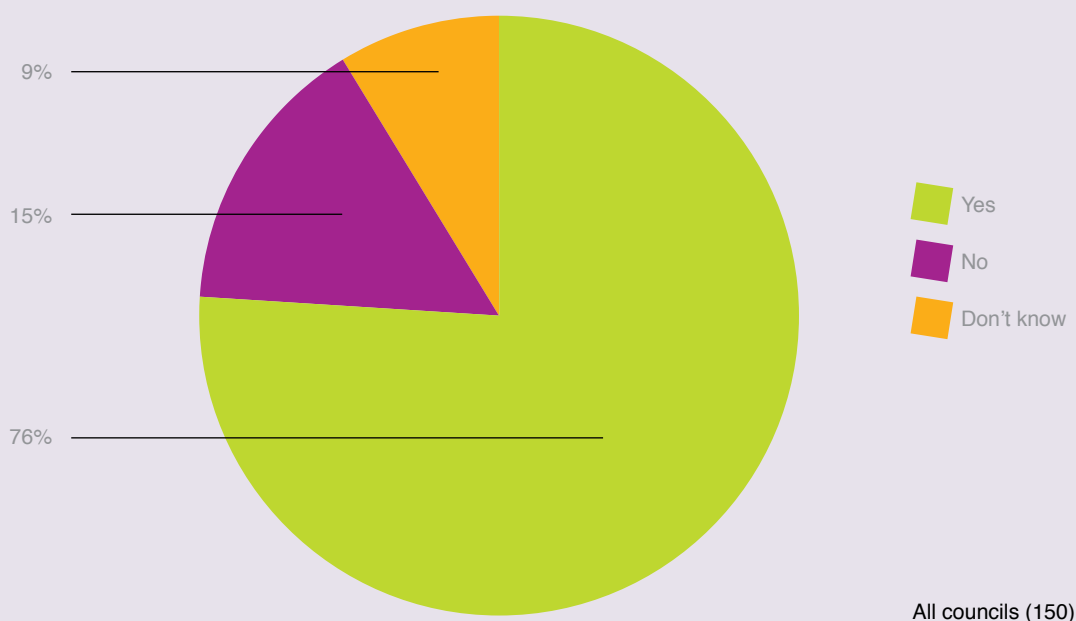
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<sup>31</sup>Trading Standards Institute Work Force Survey 2014 available online at: <http://www.tradingstandards.uk/policy/WorkforceSurvey2014.cfm> [accessed 15 July 2015]

<sup>32</sup>Chartered Trading Standards Institute , *The Summer Budget 2015: The impact on Trading Standards* available online at: [file:///P:/The\\_Summer\\_Budget\\_2015.pdf](file:///P:/The_Summer_Budget_2015.pdf) [accessed 15 July 2015]

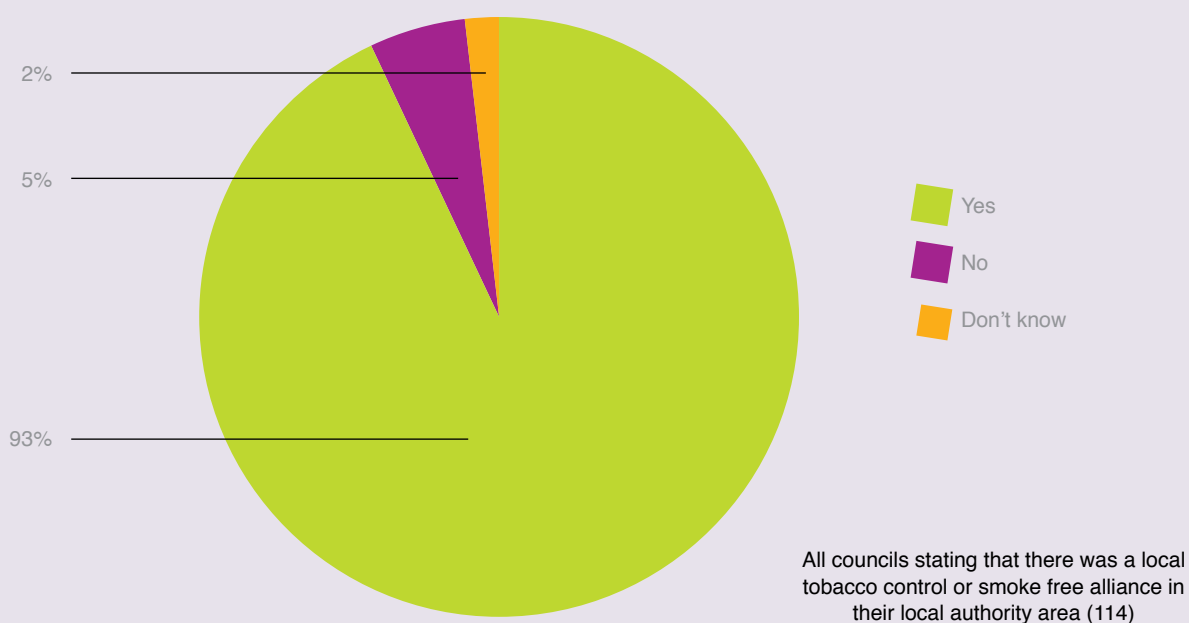


Figure 15: Was there a local tobacco control or smoke free alliance in your local authority area in the 2014 – 2015 financial year (1 April 2014 – 31 March 2015)?



Of those who stated that there was a local tobacco control or smoke free alliance in their local authority area 93% stated that a representative from trading standards attended at least one meeting in 2014/15. 5% stated no, and 2% did not know.

Figure 16: Did a representative from trading standards in your local authority attend at least one meeting of the local tobacco control or smoke free alliance in the 2014 – 15 financial year (1 April 2014 – 31 March 2015)?



## Working in partnership on tobacco control activities

95% of all councils were conducting work in partnership on their tobacco control activities.

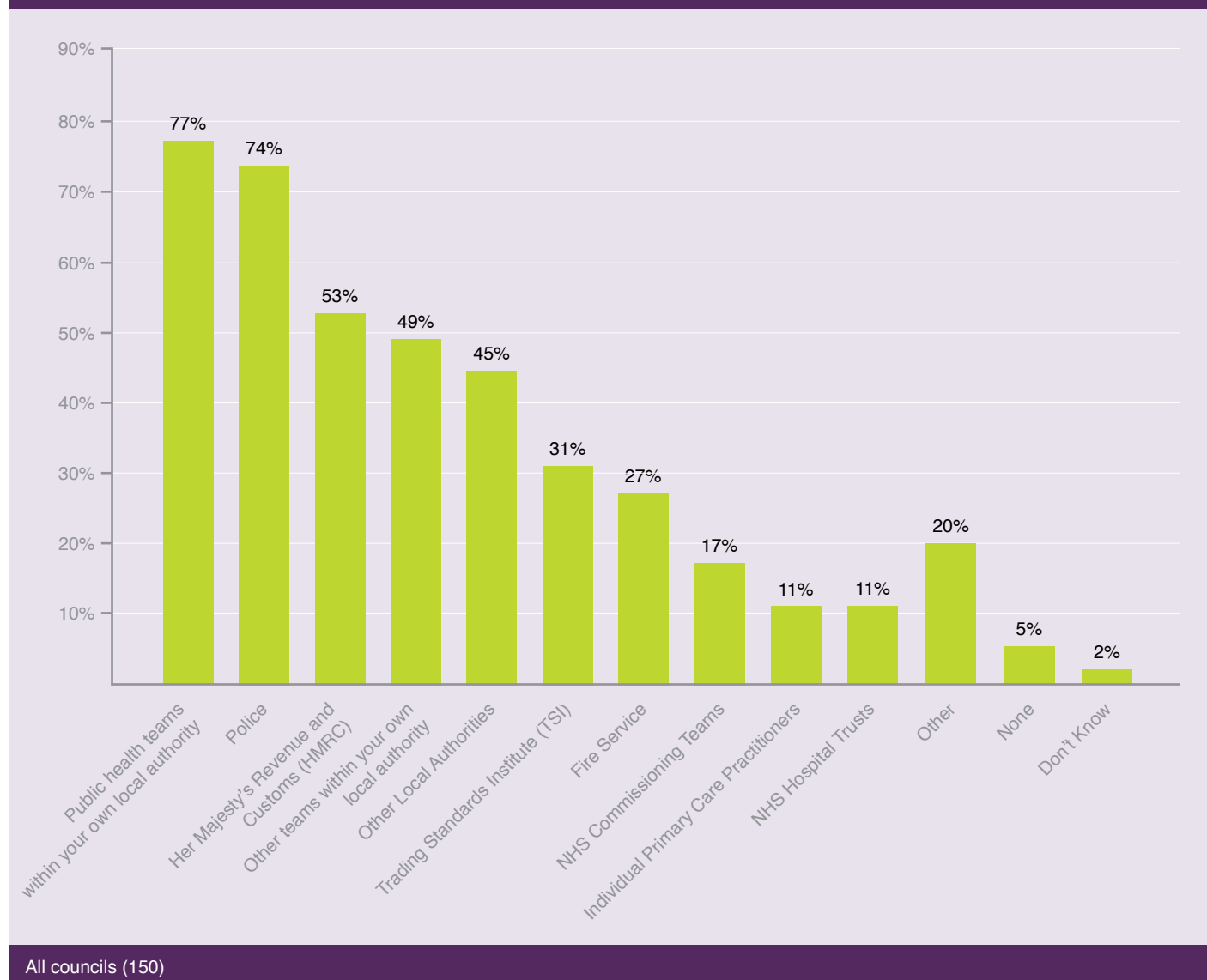
The greatest proportion of all councils (77%) were working in partnership with public health teams from their own local authority, followed by just under three quarters (74%) with the police and just over half (53%) with HMRC.

Fewest councils were working with both individual primary care practitioners and NHS hospital trusts (11% for both respectively).

20% of councils were working with “other” types of service providers which included:

- Regional tobacco alliances.
- Education providers (schools, colleges and universities).

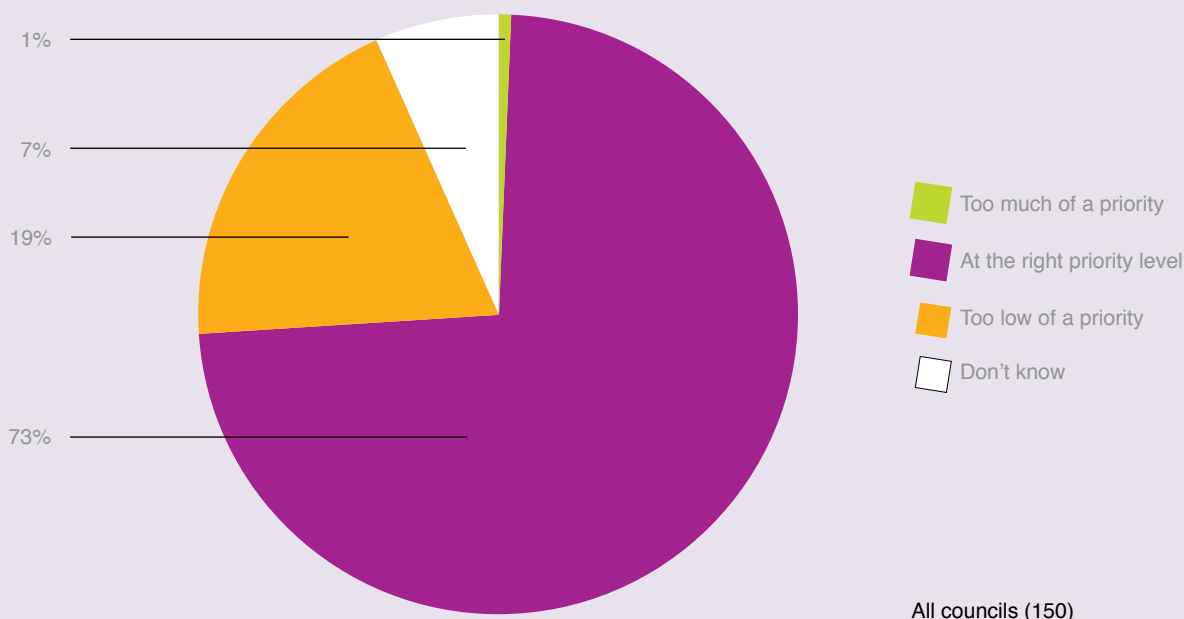
Figure 17: Which, if any, of the following are your key partners?



Respondents were asked if they felt that tobacco control had been made too much of a priority, too low a priority or a priority set at the right level in their local authority in the 2014 – 2015 financial year.

The majority (73%) stated that it was at the right priority level, with nearly a fifth (19%) stating it was too low a priority, and only 1% stating that it was too high a priority. 7% did not know.

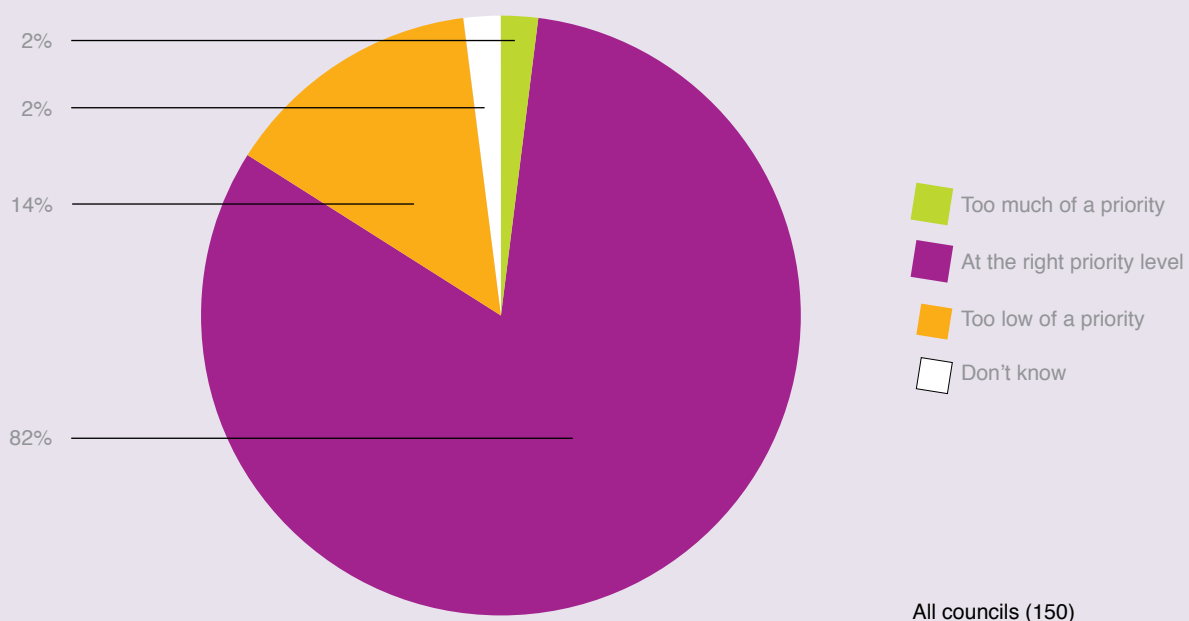
Figure 18: In your opinion in the last financial year (2014 – 2015) do you feel that tobacco control has been made too much of a priority, too low a priority or is at the right priority level in your local authority?



All respondents were asked if they felt that tobacco control has been made too much of a priority, too low a priority or is at the right priority level in their own trading standards service in the 2014 – 15 financial year.

The majority (82%) stated that it was at the right priority level, with 14% stating it was too low a priority, and only 2% stating that it was too high a priority. 2% did not know.

Figure 19: In your opinion in the last financial year (2014 – 2015) do you feel that tobacco control has been made too much of a priority, too low a priority or is at the right priority level in your own trading standards service?



## 11 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 industry<sup>33</sup>.

The *Local Government Declaration on Tobacco Control*<sup>34</sup> launched in May 2013 has now been signed by over 80 councils, the most recent being Croydon Council in June 2015. 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 tobacco industry to officials or employees”.*

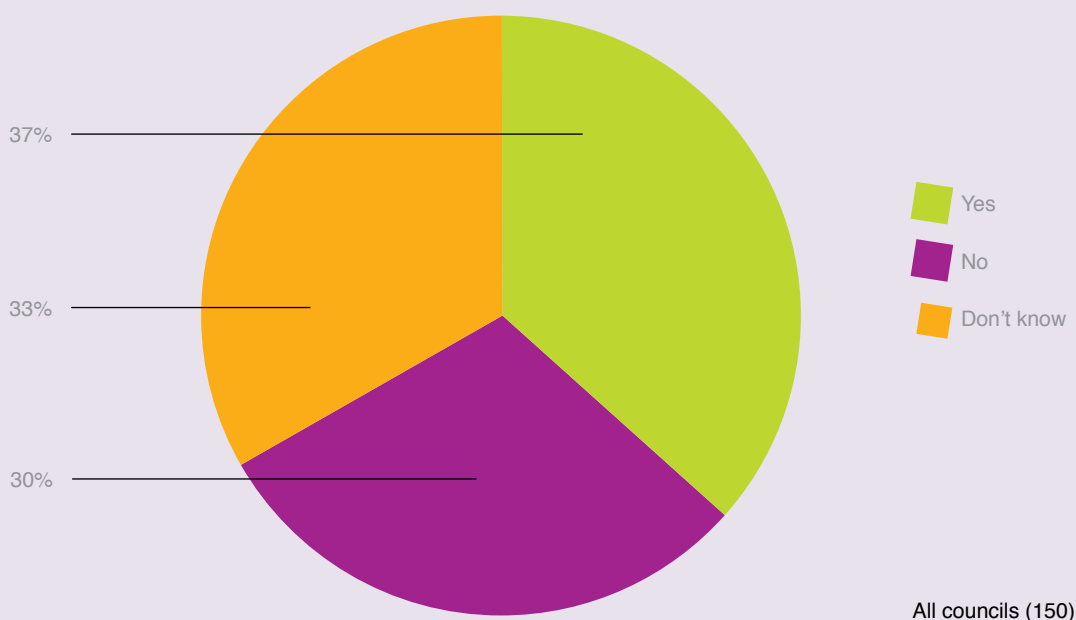
The following data seeks to explore the extent to which there are policies in place in councils and trading standards services addressing the principles of Article 5.3.

### Findings

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).

Just under two fifths of councils (37%) stated that they did, with 30% stating that they did not, and a third (33%) stating that they did not know.

Figure 20: Did your council have a written policy in relation to article 5.3 of the Framework Convention on Tobacco Control (FCTC) with the tobacco industry in the 2014 – 2015 financial year (1 April 2014 – 31 March 2015)?



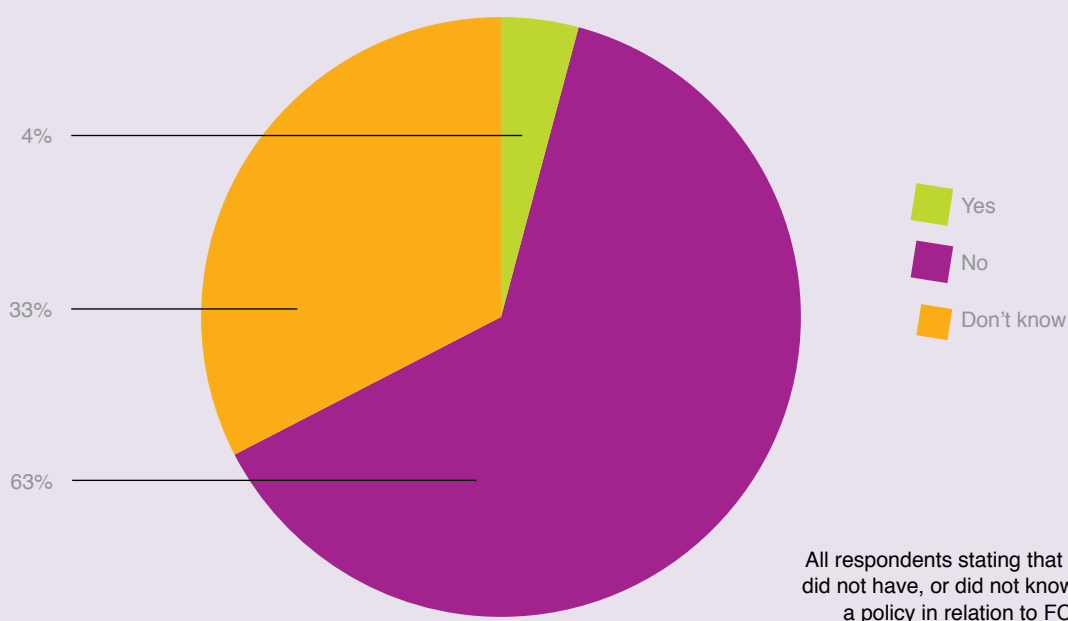
<sup>33</sup>World Health Organisation Guidelines for implementation of FCTC: Article 5.3 available online at: [http://www.who.int/fctc/guidelines/article\\_5\\_3.pdf](http://www.who.int/fctc/guidelines/article_5_3.pdf) [accessed 16 July 2015]

<sup>34</sup>Local Government Declaration on Tobacco Control available online at: <http://www.smokefreeaction.org.uk/declaration/#Signatories> [accessed 16th July 2015]

All councils who stated no, or that they did not know were asked if their trading standards service had a written policy, in relation to article 5.3 of the Framework Convention on Tobacco Control (FCTC), with the tobacco industry in 2014/15.

The majority of councils (63%) stated that their trading standards service did not. A third (33%) stated that they did not know if their trading standards service had a policy in place, while 4% stated that their trading standard service did.

Figure 21: Did your trading standards service have a written policy in relation to article 5.3 of the Framework Convention on Tobacco Control (FCTC) with the tobacco industry in the 2014 – 2015 financial year (1 April 2014 – 31 March 2015)?



## 12 Conclusion

There has been no fundamental change in the types and level of tobacco control activity undertaken by trading standards in 2014/15 compared to 2013/14. Work related to illicit tobacco activities has remained the activity most frequently undertaken by councils (94% of councils), with work around niche tobacco the least frequently undertaken.

### Under age sales

All activity in relation to under age sales remained broadly the same as in 2013/14. Sale levels in test purchase operations remained at 11% (from a high of 18% in 2008/09). Similarly to 2013/14 sales were most likely to occur at market/car boot sales – but the number of test purchase operations at these premises were low (with just 4 being conducted). More test purchases would be need to conducted at market/car boot sales to assess whether the high sales rate would be maintained with a greater number of visits.

### Illicit tobacco products

Despite the majority of councils (57%) perceiving that their levels of illicit tobacco control activity had increased in 2014/15 within their own councils, overall there was very little change in levels of activity between 2013/14 and 2014/15.

The key significant difference between 2013/14 and 2014/15 was that there was an increase in the average number of complaints and enquiries received about illicit tobacco products per council, rising from a mean average of 23 in 2013/14 to 29 in 2014/15.

Also of note more councils were able to provide detail on the average price of hand-rolling tobacco, suggesting that there may suggest a greater awareness of the sales prices for this illicit product.

### Illicit tobacco: actions taken in relation to Operation Henry

Of course a number of councils did undertake more activity in relation to illicit tobacco as a result of their involvement in Operation Henry. However actions taken as a result of Operation Henry were actually lower than actions councils took for all other activity. For example councils were more likely to undertake prosecutions normally (50% of councils) compared to just 24% undertaking prosecutions as part of Operation Henry. This could be because outcomes are not yet known where investigations have been lengthy.

### Niche tobacco products

Levels of council activity in relation to the detection of niche tobacco products were maintained in 2014/15 (45% of all councils conducting this activity), along with the proportion of councils taking actions in relation to detection. Shisha returned to being the product detected by most councils (64%) (as shisha had also been in 2010/11 and 2012/13), where as in 2013/14 the product most frequently detected was blunts.

### Electronic cigarettes

All activity in relation to electronic cigarettes was broadly the same – with the same number of councils (67%) undertaking activity as in 2014/15 as 2013/14. Similarly to 2013/14 where advice was provided this was most often to retailers (by 81% of councils).

### Reduced ignition propensity testing

Reduced Ignition Propensity (RIP) testing of cigarettes is not undertaken regularly by Trading Standards Services. The majority of councils (84%) had not undertaken RIP testing, with only 16% stating that they had.

### Collaborative working

Partnership working was common – only 5% of councils stated they did not have key partners. The most common key partners were public health teams within respondents' own local authorities (for 77% of councils working collaboratively) and the police (for 74% of respondents).

Councils were generally engaged in their local tobacco control or smoke free alliance with 71% of councils stating that a representative from trading standards had attended at least one local meeting

Most councils (73%) stated that tobacco control activities were placed at the right priority level within their local authority in 2014/15, with an even greater proportion, 82%, thought that tobacco control activities were placed at the right priority with their trading standards service.

### Article 5.3 of the Framework Convention on Tobacco Control

Broadly the same proportion of councils (37%) in 2014/15 as in 2013/14 had a written policy in relation to Article 5.3 of the Framework Convention on Tobacco Control (FCTC).



## Annex 1: Additional guidance for the completion of the tobacco control survey 2014 - 15

The tobacco control survey asks for data for specific tobacco control activities carried out or discovered in specific premise types.

The following premise categories have been selected and have been agreed with the DH and HMRC as appropriate for this purpose.

When completing your return please identify the premise type by the main activity of the business.

Premises	Guidance/Examples
Large retailer	National – e.g. Tesco, Sainsbury, Waitrose, Asda
Small retailer	Lo-Cost, NISA, SPA could be members of the Association of Convenience Stores
National newsagent	Martin McColl, WH Smith
Independent newsagent	Not part of a chain as above; could be members of the National Federation of Retail Newsagents
Off licence	Any sale or supply of tobacco made from an off licence regardless of being national/local
Petrol station kiosk	Any sale made from the shop attached to the petrol site whether as part of a “large national” or not
Market/car boot sale	Self-explanatory
Pub/club	On-licensed premise
Private homes	Domestic dwellings
Other	Café , leisure facility

You will be asked about repeat offenders – this is to be construed as an individual or business against whom you have previously taken formal legal action.

## Illicit tobacco

This section has been expanded this year at the request of HMRC and DH. The following guidance is provided to assist you in correctly identifying the tobacco product and completing the return.

Description	Guidance
Cheap whites	Cigarettes produced entirely independently of the International Tobacco Manufacturers (ITMs) that, crucially, have no true, or a very limited, legitimate market. Effectively, cheap whites are brands manufactured for smuggling. Examples include “Jin Ling”, “Fest”, “Richman” and “Bon”.
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 however have been smuggled into the country from another location without the 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 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 is 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: <a href="http://www.ntpd.org.uk">www.ntpd.org.uk</a>
Smokeless tobacco	Refer to the Niche Tobacco Products Directory at: <a href="http://www.ntpd.org.uk">www.ntpd.org.uk</a>
Other	Tobacco product for oral use e.g. Makla Bouhel.



**The Trading Standards Institute and itsa Limited**

1 Sylvan Court, Sylvan Way, Southfields Business Park,  
Basildon, Essex SS15 6TH

Tel: 0845 608 9400 Email: [institute@tsi.org.uk](mailto:institute@tsi.org.uk)

[www.tradingstandards.gov.uk](http://www.tradingstandards.gov.uk)