



Chartered Trading
Standards Institute

TOBACCO CONTROL SURVEY, ENGLAND 2016/17

A report of council trading standards service activity

Contents

2	Contents
4	Summary
9	1 Introduction
10	2 Methodology
11	3 Tobacco control activities
12	4 Underage sales activity
18	5 Actions taken in relation to the Children and Young Persons Act 1933 (as amended)
20	6 Underage sales activity – nicotine inhaling products (NIPs)
26	7 Actions taken in relation to a breach of the Children and Families Act 2014
28	8 Illicit tobacco products
38	9 Display and pricing of tobacco products
41	10 Tobacco and Related Products Regulations 2016 (TRP)
44	11 Standardised Packaging of Tobacco Products Regulations 2015 (SPoT)
46	12 Article 5.3 of the Framework Convention on Tobacco Control
49	13 Conclusion
51	Annex 1: Underage sales of tobacco products – definitions of premises types
51	Annex 2: Underage sales of NIPs – definitions of premises types
52	Annex 3: Illicit tobacco definitions

Main report: tables

10	Table 1: Response rate by council type
10	Table 2: Response rate by region
13	Table 3: Proportion of complaints and enquiries received by premises type
14	Table 4: Proportion of visits by trading standards officers by premises type
17	Table 5: Percentage of visits undertaken by volunteer young persons by premises type
17	Table 6: Proportion of visits resulting in illegal sales by premises type
18	Table 7: In relation to all underage tobacco sale activity, how many of the following actions did you take?
19	Table 8: Level of fine, as a result of fine being imposed by the Magistrates' Court
21	Table 9: Proportion of complaints and enquiries received by premises type
22	Table 10: Proportion of visits by trading standards officers by premises type
25	Table 11: Percentage of visits undertaken by volunteer young persons by premises type
25	Table 12: Proportion of visits resulting in illegal sales by type of premises
26	Table 13: In relation to all underage NIPs activity, how many of the following actions did you take?
27	Table 14: Level of fine, as a result of fine being imposed by the Magistrates' Court
30	Table 15: Proportion of complaints and enquiries received by premises type
31	Table 16: Proportion of visits by trading standards officers by premises type
32	Table 17: Please provide details below on types of products and total amount of products that have been seized within your local authority area between 1 April 2016 and 31 March 2017
37	Table 18: In relation to all illicit tobacco product activity, how many of the following actions did you take?
37	Table 19: Level of fine, as a result of fine being imposed by the Magistrates' Court
39	Table 20: Please provide the number of visits to retail premises with each of the following outcomes
40	Table 21: Please provide the number of visits to wholesale/cash and carry type businesses with each of the following outcomes
41	Table 22: In relation to display and pricing compliance, how many of the following actions did you take?
43	Table 23: Thinking about nicotine inhaling products, what issues, if any, have these businesses sought your advice on?

Main report: figures

- 9 Figure 1: Deaths estimated to be attributed to smoking by gender
- 11 Figure 2: Which, if any, of the following tobacco control activities has your council undertaken in the financial year 2016/17?
- 12 Figure 3: Smoking prevalence by age
- 12 Figure 4: Smoking prevalence by local authority
- 15 Figure 5: Number visited by volunteer young persons and number at which underage sales of cigarettes were made to volunteer young persons
- 16 Figure 6: Percentage of visits to premises by volunteer young persons resulting in illegal sales, between 2008/09 and 2016/17
- 20 Figure 7: Use of e-cigarettes by young people
- 23 Figure 8: Number visited by volunteer young persons and number at which underage sales of NIPs were made to volunteer young persons
- 29 Figure 9: Has your authority undertaken any joint operations with HMRC in relation to the supply of illicit products?
- 33 Figure 10: Cigarette brands not for legitimate sale in the UK seized by 10 or more councils
- 34 Figure 11: On average, what was the intended sales price for illicit cigarettes seized between 1 April 2016 and 31 March 2017?
- 35 Figure 12: Illicit hand-rolling tobacco brands seized by 10 or more councils
- 36 Figure 13: On average, what was the intended sales price for illicit hand-rolling tobacco seized between 1 April 2016 and 31 March 2017?
- 39 Figure 14: Did your authority carry out compliance visits at retail premises between 1 April 2016 and 31 March 2017?
- 40 Figure 15: Did your authority carry out compliance visits at wholesale/cash and carry type businesses?
- 42 Figure 16: Did your authority provide guidance to businesses in 2016/17 about the new TRP Regulations?
- 44 Figure 17: Packaging compliant with EU Tobacco Products Directive and Standardised Packaging regulations
- 45 Figure 18: Did your authority provide guidance to businesses in 2016/17 about the new SPoT Regulations?
- 47 Figure 19: 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 2016-2016 financial year?
- 48 Figure 20: 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 2016-2017 financial year?

Summary

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

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

Tobacco control activities

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

Underage sales: tobacco products

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

- For the 92 councils, 62% reported that cigarettes or tobacco products had been sold to the volunteer young persons in at least one premises; cigarettes were sold to underage persons at a total of 219 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 300 premises across England were detected making illegal sales of tobacco products to underage persons in 2016/17.
- Where data was provided on the number of premises and number of sales, illegal sales of cigarettes occurred in 10% of test purchase operations; this is broadly the same as in 2015/16 when 10% of test purchase operations resulted in illegal sales of cigarettes.
- 91 out of the 92 councils 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 (46%). The greatest proportion of sales occurred at markets/car boot sales (25%); however there were only 4 visits to these types of premises.

Underage sales: actions taken in relation to the Children and Young Persons Act 1933 (as amended)

- 40% of all councils (which is 49% of those who conducted activities related to underage 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 councils (69%).
 - 18% had undertaken formal legal action (prosecution cases).
 - 3 councils stated that one or more of their prosecution cases against a business had ended in a conviction (resulting in a total of 4 convictions). 1 business conviction was for a 'repeat offender'.
 - 4 councils stated that one or more of their prosecution cases had ended in conviction of an individual (resulting in a total of 6 individual convictions). 3 convictions of individuals were for 'repeat offenders'.
 - 5 councils reported that magistrates had imposed a fine as a result of one or more of these convictions. The greatest proportion (40%) of fines imposed were either £201-£300, or £401-£500.
 - No councils applied for a restricted sales order or a restricted premises order.

Underage sales: nicotine inhaling products (NIPs)

- 74% of all councils had conducted tobacco control activities in relation to underage sales of NIPs.
- 58% of all councils had received complaints and enquiries about underage sales of NIPs, with 418 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 450 complaints and enquiries about underage sales of NIPs were received in England in 2016/17.
- 102 out of the 103 councils that had received complaints and enquiries concerning underage sales of NIPs 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 were received regarding specialist e-cigarette suppliers (40%).
- 60% of all councils had undertaken visits by trading standards officers about NIPs; there were 970 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 1,000 visits by trading standards officers about underage sales of NIPs were undertaken in England in 2016/17.
- 87 out of the 88 councils that had undertaken visits by trading standards officers for NIPs were able to provide detail on the types of premises visited. The greatest proportion of visits were to convenience stores/grocers (39%).

- 52% of all councils (which is 69% of those who conduct activities related to underage sales) had carried out visits to retail premises with volunteer young persons (aged under 18) to conduct test purchase operations for NIPs:
 - All 75 councils supplied the number of premises visited; the total number was 687. If this figure is used as an indication of the likely picture in non-responding councils, this would mean an estimated total of around 900 premises across England were visited by volunteer young persons conducting test purchase operations for NIPs in 2016/17.
 - All 75 councils supplied the number of premises where sales occurred. 73% reported that NIPs had been sold to the volunteer young persons in at least one premises; NIPs were sold to underage persons at a total of 214 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 300 premises across England made sales of NIPs to underage young persons in 2016/17.
 - Illegal sales of NIPs occurred in 31% of test purchase operations.
 - All 75 councils were able to provide detail on both the types of premises visited and where sales occurred. The greatest proportion of visits were undertaken to e-cigarette providers (28%). The greatest proportion of sales occurred at online retailers (100%); however only 6 visits were undertaken to online retailers.

Underage sales of NIPs: Actions taken in relation of a breach of the Children and Families Act 2014

- 39% of all councils (which is 52% of those who conducted activities related to underage sales) stated that action had been taken as a result of breaches of the Children and Families Act 2014. Of these:
 - Verbal or written warnings were the most common type of action to be taken by the majority of councils (82%).
 - 8 councils had undertaken formal legal action (prosecution cases).
 - 3 councils stated that 1 or more of their prosecution cases against a business had ended in a conviction (resulting in a total of 3 convictions). 1 business conviction was for a 'repeat offender'.
 - 5 councils stated that 1 or more of their prosecution cases had ended in conviction of an individual (resulting in a total of 5 individual convictions). 1 conviction of an individual was for a 'repeat offender'.
 - There were 6 fines in total. The greatest number of fines imposed (2 fines) were £201-£300.
 - No councils applied for a restricted sales order or a restricted premises order.

Illicit tobacco products

- 93% of all councils had undertaken work in relation to illicit tobacco products.
- 76% of all councils stated that there was a strategy in place in their region to tackle illicit tobacco products.
- 47% of all councils had undertaken joint operations with Her Majesty's Revenue and Customs (HMRC).
- 88% of all councils had dealt with complaints and enquiries about illicit tobacco products, receiving 3,705 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 4,000 complaints and enquiries about illicit tobacco products were received in England in 2016/17.
- 124 out of the 127 councils that 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 were received regarding small retailers (49%).
- 88% of all councils had visited premises in relation to illicit tobacco products, undertaking a total of 4,874 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 5,300 premises were visited across England in 2016/17 in relation to illicit tobacco products.

- 119 out of the 127 councils that 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 undertaken to small retailers (53%).
- 66% of all councils stated that they had seized illicit tobacco products; 93 councils out of 107 were able to provide a breakdown of how much, if any, of each product was seized:
 - The greatest proportion of councils (75%) stated that visits had resulted in the seizure of brands of cigarette not for legitimate sale in the UK.
 - The most frequently seized brand of cigarette that is not for legitimate sale in the UK was L&M (by 80% of councils that reported seizing such products).
 - 37% of councils reported that the average intended sales price of illicit cigarettes seized was £4.01 to £5.00. It was most frequently stated that illicit cigarettes seized originated from Poland (36 councils) and Russia (19 councils).
 - 88 councils stated that hand-rolling tobacco was seized. The brand of hand-rolling tobacco most frequently seized was Golden Virginia (with 91% of councils that had seized hand-rolling tobacco stating they had seized this brand).
 - The greatest proportion (27%) 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 and Belgium (22 councils for each respectively).

Illicit tobacco products: actions taken

- 123 councils were able to report actions taken in relation to illicit tobacco products. Of these:
 - Verbal or written warnings were the most common type of action taken by councils (55%).
 - 48% of councils had undertaken legal actions (prosecution cases).
 - 19 councils stated that 1 or more of their prosecution cases against a business had ended in a conviction (resulting in a total of 43 convictions). 14 convictions were for repeat offenders.
 - 42 councils stated that one or more of their prosecution cases had ended in a conviction of an individual (resulting in a total of 179 convictions of individuals). 24 convictions were for repeat offenders.
 - There were 138 fines in total. The greatest number of fines imposed (43%) were under £500.
 - 21 councils reported that a community order had been imposed; in total 45 community orders had been imposed.
 - 9 out of the 44 councils reported that a custodial sentence had been imposed; in total 13 custodial sentences had been imposed.

Display and pricing of tobacco products

- 56% of all councils had conducted tobacco control activities in relation to the display and pricing of tobacco products. Of these:
 - 96% of all councils had carried out compliance visits at retail premises; 92% of visits were compliant with display requirements and 99% compliant with pricing requirements.
 - 5% of all councils had carried out compliance visits at wholesale/cash and carry businesses; all 16 visits were compliant with both display and pricing requirements.

Display and pricing of tobacco products: actions taken

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

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

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

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

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

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

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



1 Introduction

This is the fifth Tobacco Control Survey report produced by the Chartered Trading Standards Institute (CTSI). It presents the findings of a survey of all tobacco control activities carried out by trading standards services (TSS) between April 2016 and March 2017; the survey has been supported by the Department of Health (DH). It includes questions made at the request of Her Majesty's Revenue and Customs (HMRC) and Action on Smoking and Health (ASH) specifically around illicit tobacco and the status of Article 5.3 of the Framework Convention on Tobacco Control (FCTC) and the tobacco industry.

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 underage young persons at retail premises; testing the supply of both tobacco and nicotine inhaling products to young people under the age of 18 years.
- 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 regulations.

In addition, for the first time, this report also looks at the preliminary engagement between trading standards services and businesses in respect of new regulations, the Tobacco and Related Products Regulations 2016 and the Standardised Packaging of Tobacco Products Regulations (SPoT) 2015.

Whilst this survey presents data for English councils; it should be noted that there are a number of joint services now operating i.e. 2 or more council areas with 1 trading standards service. Where this structure exists, data has been requested for each separate council area.

Context

Smoking prevalence has declined from a peak in 1974 of 46% of the adult population to 15.8% of adults in the UK in 2016¹. However there were still estimated to be 474,000 hospital admissions in England for conditions that could be caused by smoking in 2015/6² thus placing a significant burden on the NHS.

The total number of deaths attributed to smoking has reduced from 90,000 in 2004 to 79,000 in 2015³, compared to the 8,758 alcohol-related deaths in the UK in 2015⁴; however, the scale of the cost of smoking in terms of human and economic loss remains significant.

Figure 1: Deaths estimated to be attributed to smoking by gender⁵



- 21% of all deaths.
- 38% of deaths for conditions that can be caused by smoking.



- 13% of all deaths.
- 27% of deaths for conditions that can be caused by smoking.

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

1 Office for National Statistics, *Adult Smoking habits in the UK: 2016*, 2016 available at: <https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/healthandlifeexpectancies/bulletins/adultsmokinghabitsingreatbritain/2016> [accessed online 20 June 2017]

2 NHS, *Statistics on Smoking*, 2017 available at: <http://content.digital.nhs.uk/catalogue/PUB20781/stat-smok-eng-2016-rep.pdf> [accessed online 7 August 2017]

3 *ibid*

4 Office for National Statistics, *Alcohol related deaths in the UK: registered in 2015*, 2015 available at: <https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/causesofdeath/bulletins/alcoholrelateddeathsintheunitedkingdom/registeredin2015#main-points> [accessed online 28 April 2017]

5 *ibid*

2 Methodology

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

Tobacco control lead officers within councils were advised of the survey in advance to increase the response rate. 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 2016/17 online questionnaire was emailed to all single tier councils on 3 April 2017⁶, and by the end of fieldwork on 19 May 2017 it had been completed by 145 councils, which was a response rate of 96%. Although the vast majority of councils responded, the base does vary, as not every respondent answered every question.

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

Table 1: Response rate by council type

Council type	Total number in each type	Number of respondents	Response rate (%)
County	27	26	96
London borough	33	30	91
Metropolitan district	36	36	100
Unitary authority	55	53	96
Base	151	145	96

Table 2: Response rate by region

Region	Total number in region	Number of respondents	Response rate (%)
East Midlands	9	9	100
East of England	11	11	100
London	33	30	91
North East	12	12	100
North West	23	23	100
South East	19	18	95
South West	15	14	93
West Midlands	14	14	100
Yorkshire and the Humber	15	14	93
Base	151	145	96

All figures provided in the main report are with reference to tobacco control activity conducted in England between 1 April 2016 and 31 March 2017, unless otherwise stated.

Figures are reported as a percentage of the total number of respondents to this survey (145) 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 who stated that they did not know. Grossed figures have been rounded to the nearest 100 unless otherwise stated.

⁶ 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

Results are directly compared to the 2015/16 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 2015/16 survey achieved 148 respondents (a 98% response rate).

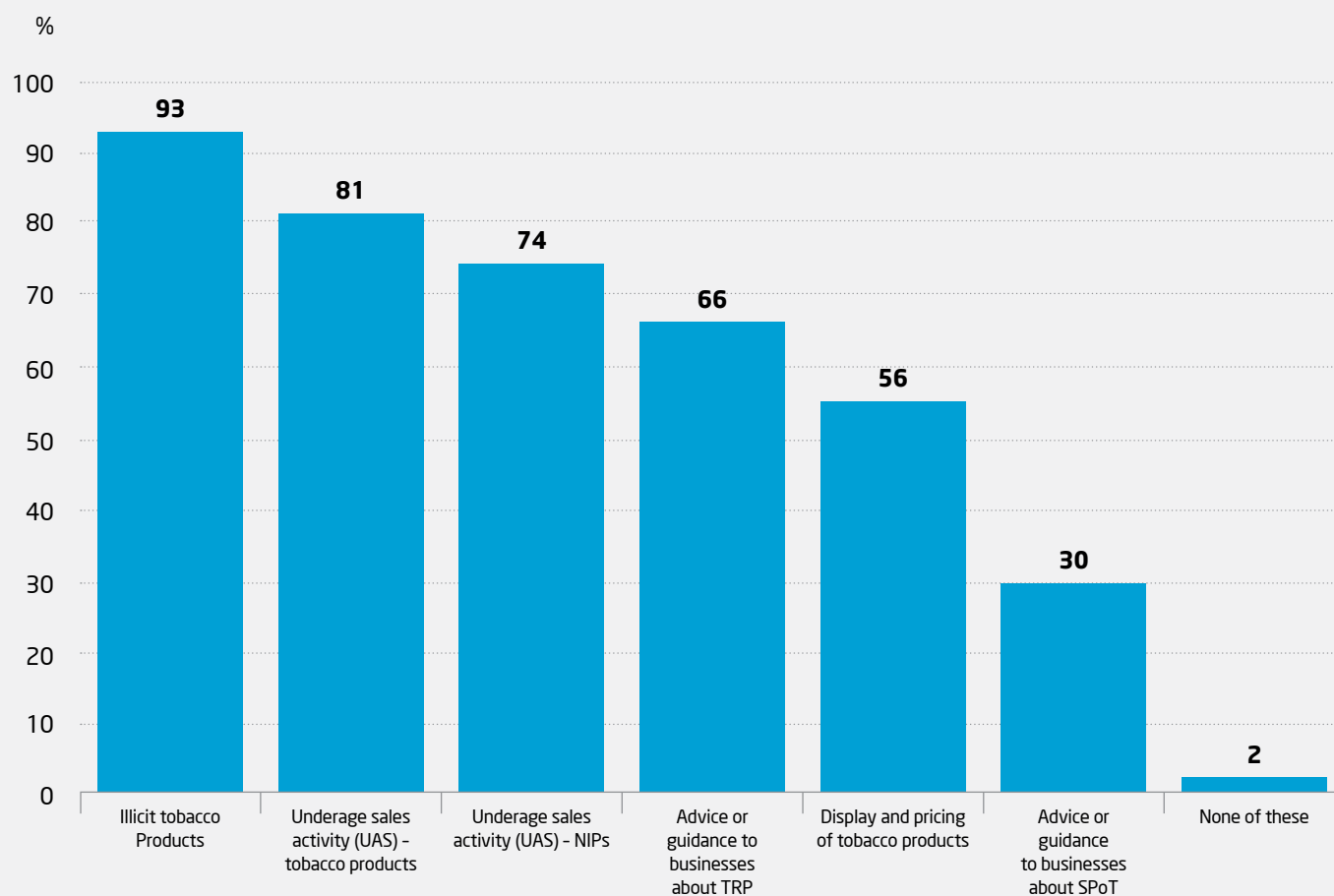
3 Tobacco control activities

Respondents were asked which core tobacco control activities from a list of six their council had undertaken in the financial year 2016/17.

96% of councils were undertaking at least one type of activity. The activity most frequently undertaken was work related to illicit tobacco (93%), with the least common activity (30%) being providing advice or guidance to businesses in relation to SPoT.

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

Figure 2: Which, if any, of the following tobacco control activities has your council undertaken in the financial year 2016/17?



Base: all councils (145)

Those not undertaking any activity (3 councils) generally stated that this was because there was a lack of intelligence to direct this work.

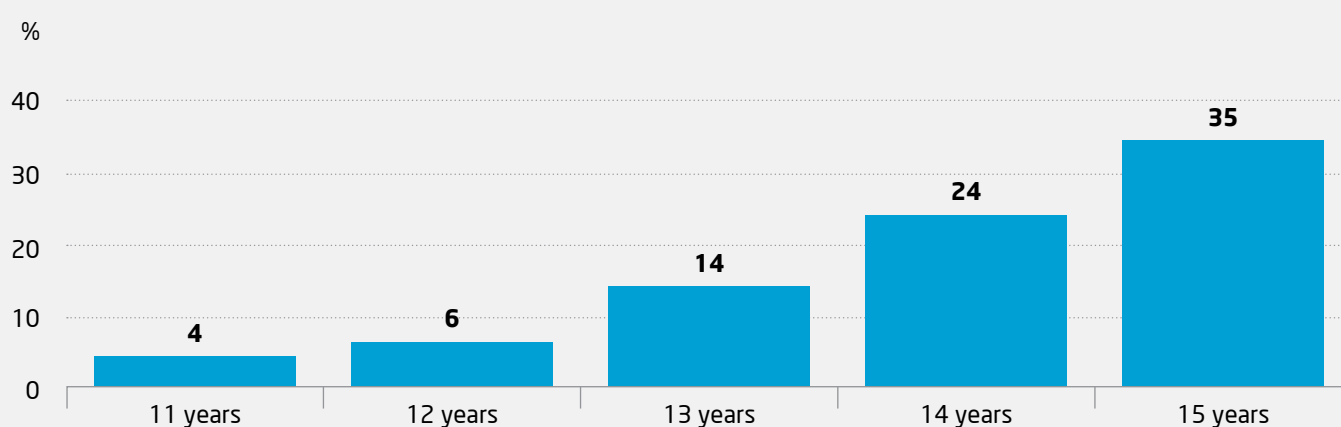
4 Underage sales activity

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

The point at which young people start to smoke, or at least first try smoking, is linked to age; there are significant increases between the percentage that smoke at 11 and those at 15 (4% and 35% respectively)⁸. There is no data provided for 16 and 17-year-olds. These are ages at which it is still illegal for tobacco to be supplied – the legal age of sale being 18.

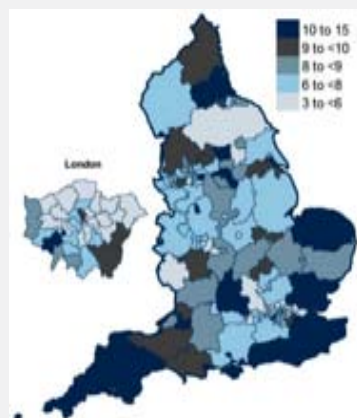
Smoking prevalence increased with age. **35% of 15-year-olds** had **ever smoked** compared to **4% of 11-year-olds**.

Figure 3: Smoking prevalence by age⁹



There are significant differences in the prevalence of smoking between local authority areas; this suggests that for some trading standards services, tackling underage sales activity may be a higher priority than for others.

Figure 4: Smoking prevalence by local authority¹⁰



Current smoking prevalence varied from **15% in Brighton and Hove** and **14% in Richmond upon Thames**, to **4% in Enfield** and **3% in Redbridge**.

⁷ NHS Statistics on *Smoking England: 2017*, 2017 available at: <https://digital.nhs.uk/catalogue/PUB24228> [accessed online 8 August 2017]

⁸ *Ibid*

⁹ *Ibid*

¹⁰ *Ibid*

Findings

84% of all councils conducted activities in relation to underage sales.

Complaints and enquiries received

73% 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 (106 councils), they received a total of 973 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 1,000 complaints and enquiries about underage sales from retail premises were received in England in 2016/17.

Complaints and enquiries received by premises type

Councils were asked to provide a breakdown of the complaints and enquiries received by premises type¹¹. Analysis has only been conducted where councils received complaints and enquiries, and were able to provide an accurate breakdown across all premises types for complaints and enquiries; 104 out of 106 councils were able to provide this detail.

In total 968 complaints and enquiries were received by these councils, with the largest proportion of complaints and enquiries being received about small retailers (49%), followed by independent newsagents (19%); the smallest proportion were received about markets/car boot sales (1%).

Table 3: Proportion of complaints and enquiries received by premises type

Type of premises	Complaints and enquiries received (%)
Small retailer	49
Independent newsagent	19
Off-licence	16
Private homes	5
Large retailer	3
Pub/club	1
National newsagent	1
Petrol station kiosk	1
Market/car boot sale	1
Other	5
Base number of complaints and enquiries	973
<i>Number of councils providing data</i>	<i>106</i>

Visits by trading standards officers to premises

69% of all councils reported they had undertaken visits to premises by trading standards officers in relation to underage sales. In total in 2016/17 4,826 visits were undertaken by trading standards officers.

If this figure is used as an indication of the likely picture in non-responding councils, this would mean an estimated total of around 5,100 visits in relation to underage sales from retail premises were made by trading standards officers in England in 2016/17.

¹¹ For guidance on definitions of premises types 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 by premises type

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

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

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

Table 4: Proportion of visits by trading standards officers by premises type

Type of premises	Visits undertaken (%)
Small retailer	44
Off-licence	29
Independent newsagent	12
Large retailer	4
Petrol station kiosk	3
Pub/club	3
National newsagent	2
Market/car boot sale	1
Private homes	<0.5
Other	1
Base number of complaints and enquiries	4,517
<i>Number of councils providing data</i>	<i>95</i>

Conducting test purchase operations with volunteer young persons

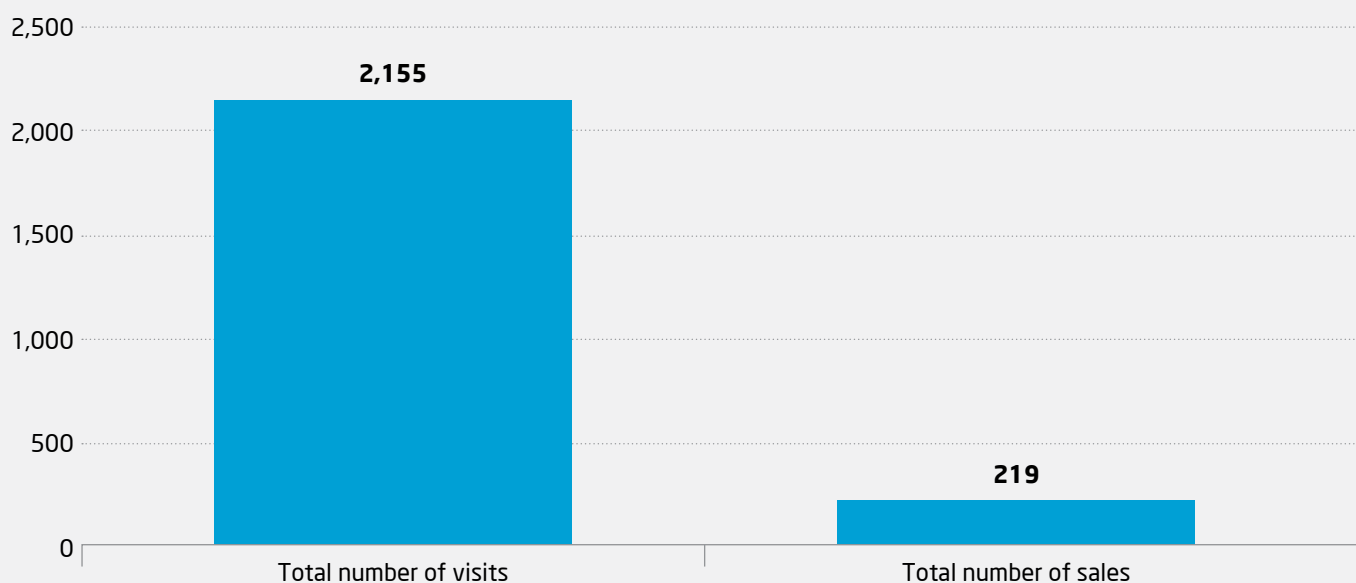
65% of all councils carried out test purchase operations at retail premises with volunteer young persons.

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

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

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

Figure 5: Number visited by volunteer young persons and number at which underage sales of cigarettes were made to volunteer young persons



Base: All councils conducting visits with young persons to premises who stated the number of visits conducted and the total number of sales (93)

Outcome of visits to retail premises with volunteer young persons

Visits conducted

92 out of the 94 councils that had conducted visits to premises with volunteer young persons supplied the number of premises visited; this was a total of 2,115.

If this figure is used as an indication of the likely picture in non-responding councils, this would mean an estimated total of around 2,500 premises across England were visited by volunteer young persons in the conduct of test purchase operations in 2016/17.

Number of visits to premises resulting in illegal sales

92 out of 94 councils were able to report the number of visits with volunteer young people where sales had occurred. Of those able to provide detail, 62% reported that cigarettes or tobacco products had been sold in at least 1 premises. Where cigarettes were sold to underage persons in 2016/17, they were sold at a median of 3 premises and a total of 219 premises.

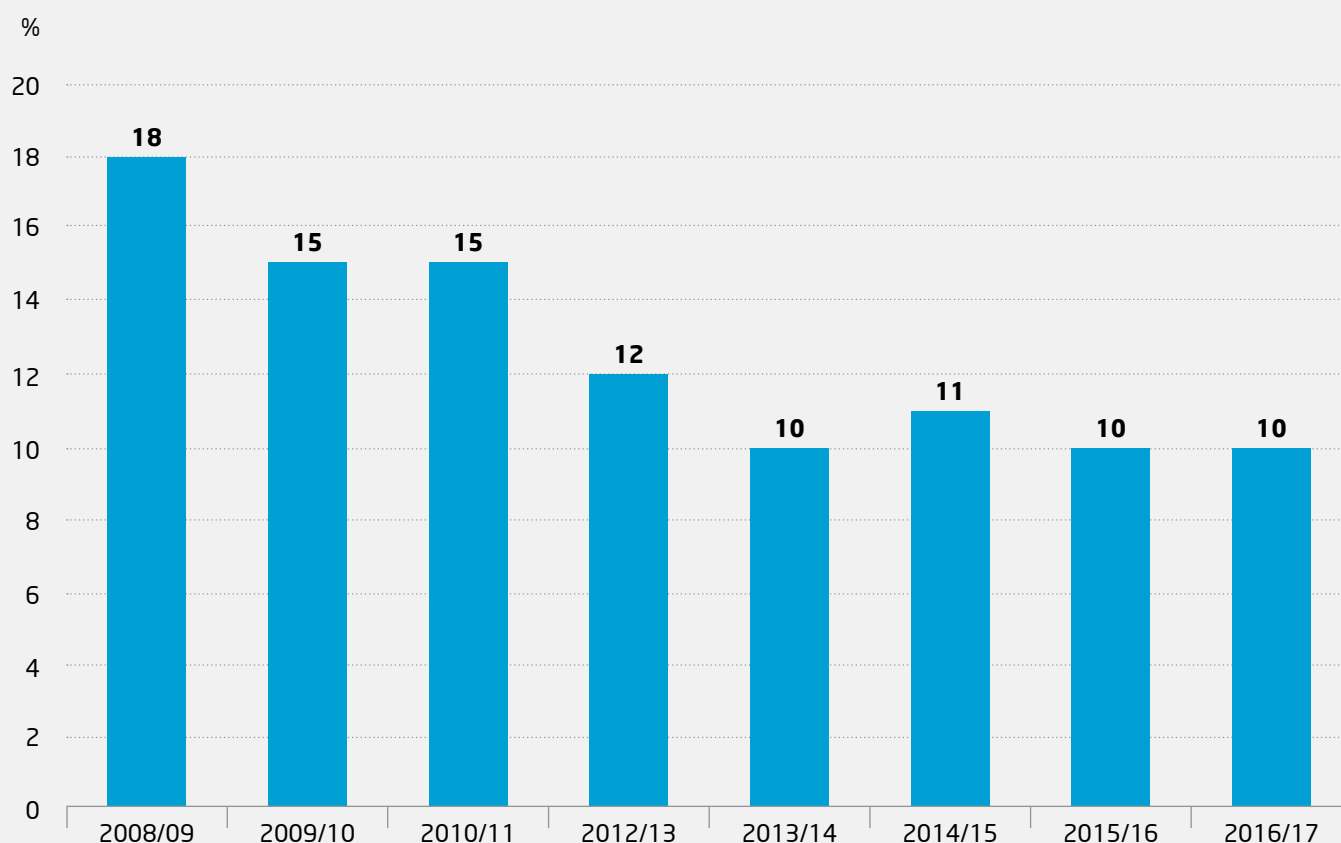
If this figure is used as an indication of the likely picture in non-responding councils, this would mean an estimated total of around 300 premises across England were detected making illegal sales of tobacco products to underage young persons in 2016/17.

Proportion of visits to premises resulting in illegal sales

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

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

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



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

Types of premises¹²

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

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

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

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

Table 5: Percentage of visits undertaken by volunteer young persons by premises type

Type of premises	Visits undertaken (%)
Small retailer	46
Off-licence	26
Independent newsagent	16
Large retailer	5
National newsagent	3
Petrol station kiosk	2
Market/car boot sale	<0.5
Pub/club	<0.5
Private homes	<0.5
Other	1
Base number of visits	2,143
<i>Number of councils providing data</i>	<i>91</i>

Where more than 20 visits had been undertaken, petrol station kiosks had the greatest proportion of sales (25%), whilst large retailers had the smallest proportion of sales (5%).

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

Type of premises	Number of sales	Number of visits undertaken	Percentage of sales (%)
Market/car boot sale	1	4	25
Petrol station kiosk	12	52	23
Independent newsagent	51	347	15
Off-licence	52	553	9
Small retailer	90	977	9
National newsagent	4	64	6
Large retailer	6	116	5
Private homes	1	1	<0.5
Pub/club	0	2	0
Other	2	27	7
<i>Number of councils providing data</i>		<i>91</i>	

In comparison to 2015/16 there were:

- Significantly more visits resulting in illegal sales at independent newsagents (15% compared to 10% of all sales at independent newsagents).

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

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

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

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

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

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

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

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

Prosecutions relating to the 1933 Act (as amended)

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

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

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

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

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

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

Table 8: Level of fine, as a result of fine being imposed by the Magistrates' Court

Level of fine	Percentage of fines
Up to £100	0
£101-£200	0
£201-£300	40
£301-£400	0
£401-£500	40
£501-£1,000	10
£1,001-£1,500	10
£1,501-£2,000	0
£2,001-£2,500	0
Total number of fines	10

Base: All authorities that knew the level of fines for some of their convictions (5)

Restricted sales and premises orders

No restricted sales or premises orders were applied for.

Alternative sanctions

16% of councils imposed 'alternative sanctions' – for example, mandatory attendance on a training course – with a median average of 4 per council and a total of 30.

6 Underage sales activity - nicotine inhaling products (NIPs)

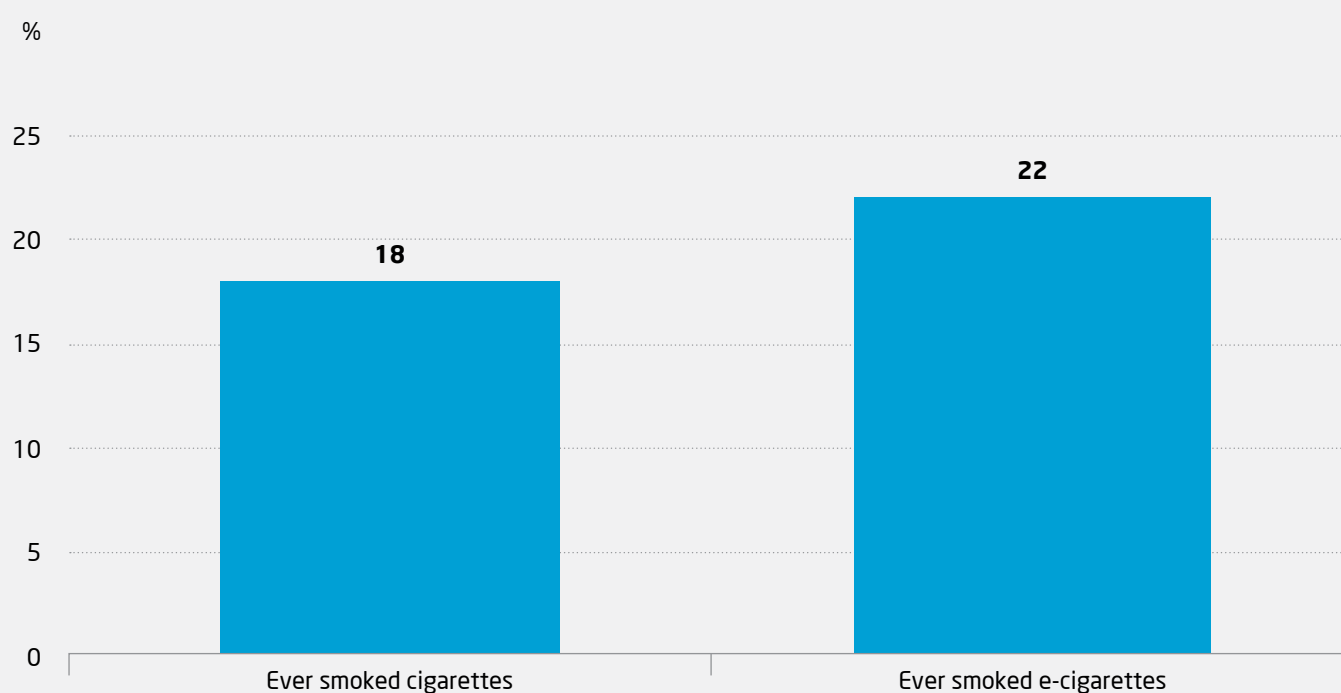
The Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations 2015¹⁴ prohibit the sale of nicotine inhaling products to young people under the age of 18. These were implemented in October 2015.

More secondary school pupils reported having tried e-cigarettes at least once (**22%**) than traditional cigarettes (**18%**). It is clear therefore that young people are at least interested in these products and thus reducing the access to such by young people under 18 is an important role for trading standards.

“Although children’s awareness of and experimentation with electronic cigarettes is increasing, regular use remains rare and is most common among those who currently smoke or have previously smoked. This indicates that it is unlikely that electronic cigarettes are currently acting as a gateway, something which leads causally to smoking.”¹⁵

However, e-cigarettes are now the most commonly used form of tobacco by youth in the US¹⁶ which may give some indication as to the future situation in the UK.

Figure 7: Use of e-cigarettes by young people¹⁷



¹⁴ Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations 2015 available at <http://www.legislation.gov.uk/uksi/2015/895/contents/made> accessed online 28 April 2017

¹⁵ ASH, Use of electronic cigarettes among children in Great Britain, 2016 available at <http://ash.org.uk/media-and-news/press-releases-media-and-news/new-research-by-ash-finds-use-of-electronic-cigarettes-remains-low-among-young-people> [accessed online 8 August 2017]

¹⁶ Centers for Disease Control and Prevention, E-Cigarettes and Young People: A Public Health Concern, 2017 available at <https://www.cdc.gov/features/ecigarettes-young-people/> [accessed online 28 April 2017]

¹⁷ NHS, op.cit

Findings

74% of all councils conducted activities in relation to underage sales for NIPs.

Complaints and enquiries received

103 out of the 108 councils conducting activities in relation to underage sales for NIPs could provide detail on the complaints and enquiries received about them.

58% 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 418 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 450 complaints and enquiries about underage sales from retail premises were received in England in 2016/17.

Among councils reporting levels of activity in 2015/16 and 2016/17, matched sample analysis indicated there was a statistically significant increase in the mean average number of complaints and enquiries received from 2 in 2015/16 to 4 in 2016/17¹⁸.

Complaints and enquiries received by premises type

Councils were asked to provide a breakdown of the complaints and enquiries received by premises type¹⁹.

Analysis has only been conducted where councils received complaints and enquiries, and were able to provide an accurate breakdown across all premises types for complaints and enquiries; 102 out of 103 councils that had received complaints and enquiries were able to provide this detail.

Of the 386 complaints and enquiries received by these councils, the largest proportion of complaints and enquiries were received about specialist e-cigarette suppliers (40%), followed by convenience stores/grocers (14%); no complaints or enquiries were received about national pharmacy chains.

Table 9: Proportion of complaints and enquiries received by premises type

Type of premises	Complaints and enquiries received (%)
Specialist e-cigarette supplier	40
Convenience store/grocer	14
Discount shop	12
Independent newsagent	8
Market/car boot sale	8
Online retailer	4
Large retailer	4
Mobile phone shop	2
National newsagent	1
Petrol station kiosk	1
Pharmacy independent	<0.5
Pharmacy national chain	0
Base number of complaints and enquiries	415
Number of councils providing data	102

¹⁸ A paired samples t test revealed a statistically reliable difference between the mean average number of complaints and enquiries received in 2015/16 (mean = 2.14, standard deviation = 3.2) and 2016/17 (mean = 4.05, standard deviation = 5.0); $t(84) = -4.24$, $p < 0.5$

¹⁹ For guidance on definitions of premises types please see annex 2

Visits by trading standards officers to premises

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

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

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

Visits by trading standards officers by premises type

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

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

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

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

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

Conducting test purchase operations with volunteer young persons

52% of all councils carried out test purchase operations at retail premises with volunteer young persons for NIPs.

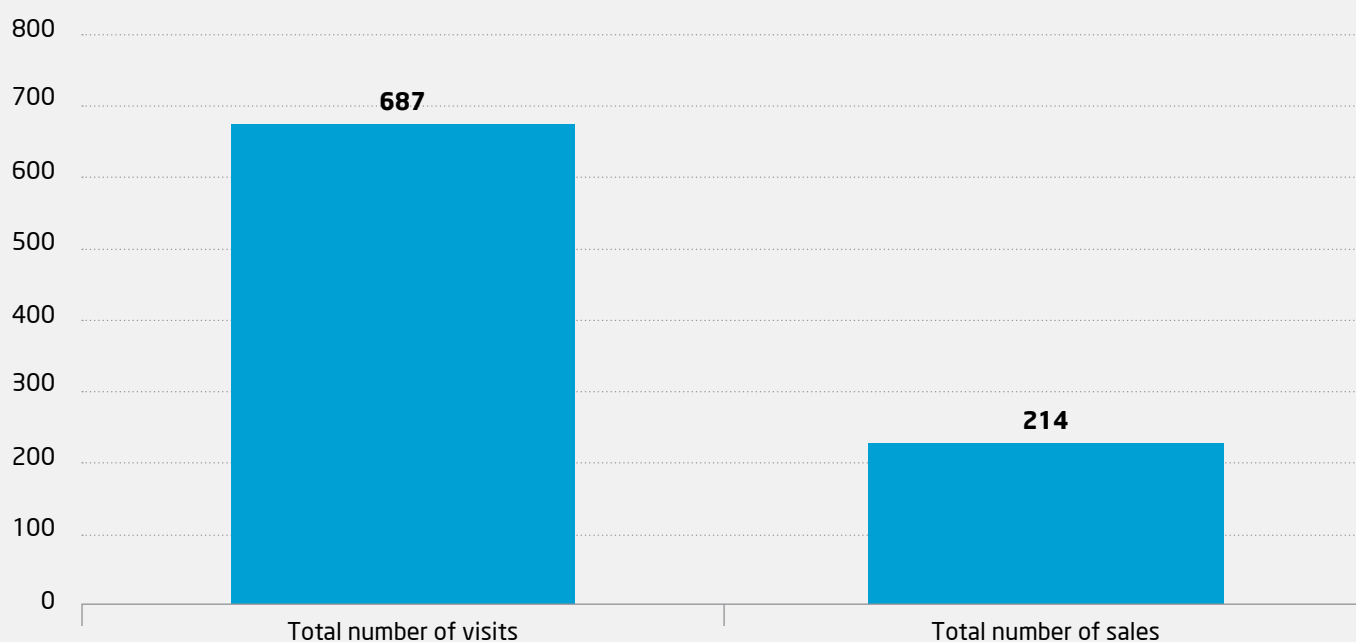
Of those conducting work around underage sales of NIPs, 23% of councils were engaged in underage sales activities, but not carrying out work with volunteer young persons in test purchase operations in premises. For these (33 councils), the most frequently cited reason was lack of intelligence (stated spontaneously by 18 councils), followed by staff resource being directed at other underage sales activities (11 councils). The following reasons were also stated by at least one council:

- Lack of staff resource overall.
- Financial resources directed at other underage sales activity.
- Lack of financial resource overall.
- Unable to recruit volunteers.

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

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

Figure 8: Number visited by volunteer young persons and number at which underage sales of NIPs were made to volunteer young persons



Base: All councils conducting visits with young persons to premises who stated the number of visits conducted and the total number of sales (75)

Outcome of visits to retail premises with volunteer young persons

Visits conducted

All 75 councils that had conducted visits to premises with volunteer young persons supplied the number of premises visited; this was a total of 687.

If this figure is used as an indication of the likely picture in non-responding councils, this would mean an estimated total of around 900 premises across England were visited by volunteer young persons in the conduct of test purchase operations in 2016/17.

Among councils reporting levels of activity in 2015/16 and 2016/17, matched sample analysis indicated there was a statistically significant decrease in the mean average number of visits to premises with volunteer young persons from 11 in 2015/16 to 8 in 2016/17²⁰.

Number of visits to premises resulting in illegal sales

All 75 councils were able to report the number of visits with volunteer young people where sales had occurred. 73% reported that NIPs had been sold in at least 1 premises.

Where NIPs were sold to underage persons in 2016/17, they were sold at a median of 2 premises and a total of 214 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 300 premises across England were detected selling NIPs to underage persons in 2016/17.

Among councils reporting levels of activity in 2015/16 and 2016/17, matched sample analysis indicated there was a statistically significant decrease in the mean average number of visits to premises with volunteer young persons from 4 in 2015/16 to 3 in 2016/17²¹.

Proportion of visits to premises resulting in illegal sales

All 75 councils provided data on both the number of premises visited and the number at which NIPs were sold to underage persons. Sales of NIPs occurred in 31% of test purchases at premises. This is a significant decrease on the 36% of sales at test purchases that occurred in 2015/16.

Types of premises

Councils were asked to provide a breakdown of the types of premises²² visited with volunteer young persons and the number of premises where NIPs were sold.

Analysis has only been conducted where councils were able to provide an accurate breakdown across all premises for both visits and sales; 75 councils were able to provide this detail.

Of the 687 visits that were undertaken by volunteer young persons, the largest proportion of visits were conducted at specialist e-cigarette providers (28%) and the smallest proportion via online retailers (1%).

20 A paired samples t test revealed a statistically reliable difference between the mean average number of visits to premises with volunteer young persons in 2015/16 (mean = 10.62, standard deviation = 7.1) and 2016/17 (mean = 8.17, standard deviation = 8.1); $t(65) = 2.24$, $p < 0.05$

21 A paired samples t test revealed a statistically reliable difference between the mean average number of visits to premises with volunteer young persons in 2015/16 (mean = 4.29, standard deviation = 3.5) and 2016/17 (mean = 2.83, standard deviation = 3.8); $t(65) = 2.42$, $p < 0.05$

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

Table 11: Percentage of visits undertaken by volunteer young persons by premises type

Type of premises	Visits undertaken (%)
Specialist e-cigarette supplier	28
Convenience store/grocer	18
Independent newsagent	11
Large retailer	9
Discount shop	8
National newsagent	6
Market/car boot sale	4
Petrol station kiosk	3
Pharmacy national chain	2
Pharmacy independent	2
Mobile phone shop	2
Online retailer	1
Other	7
Base number of visits	687
<i>Number of councils providing data</i>	<i>75</i>

Where more than 20 visits had been undertaken, market/car boot sales had the greatest proportion of sales (52%) whilst large retailers had the smallest proportion (19%).

Online retailers had a 100% sales rate, although only 6 visits were undertaken.

Table 12: Proportion of visits resulting in illegal sales by type of premises

Type of premises	Number of sales	Number of visits undertaken	Percentage of sales (%)
Online retailer	6	6	100
Market/car boot sale	15	29	52
Discount shop	21	56	38
Specialist e-cigarette supplier	71	194	37
Convenience store/grocer	40	126	32
Pharmacy national chain	4	15	27
National newsagent	9	38	24
Independent newsagent	18	76	24
Large retailer	11	59	19
Mobile phone shop	2	11	18
Petrol station kiosk	3	18	17
Pharmacy independent	1	12	8
Other	13	47	28
<i>Number of councils providing data</i>		<i>75</i>	

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

Breaches of the Children and Families Act 2014

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

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

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

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

Table 13: In relation to all underage NIPs 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	82	2	56
Simple cautions issued	21	1	56

Among councils reporting levels of activity in 2015/16 and 2016/17, matched sample analysis indicated there was a statistically significant decrease in the mean average number of verbal or written warnings issued from 6 in 2015/16 to 1 in 2016/17²³.

Among councils reporting levels of activity in 2015/16 and 2016/17, matched sample analysis indicated there was a statistically significant increase in the mean average number of cautions issued from less than 0.5 in 2015/16 to 4 in 2016/17²⁴.

Prosecutions relating to the Children and Families Act 2014

Of the councils that had undertaken action (56 councils), 12% had taken formal legal action. The median number of prosecutions was 1 per council, with 12 prosecutions in total.

Among councils reporting levels of activity in 2015/16 and 2016/17, matched sample analysis indicated there was a statistically significant increase in the mean average number of prosecutions from 0.03 in 2015/16 to 0.32 in 2016/17²⁵.

²³ A paired samples t test revealed a statistically reliable difference between the mean average number of verbal or written warnings issued in 2015/16 (mean = 5.59, standard deviation = 4.3) and 2016/17 (mean = 0.63, standard deviation = 1.7); $t(31) = 6.36$, $p < 0.5$.

²⁴ A paired samples t test revealed a statistically reliable difference between the mean average number of cautions issued in 2015/16 (mean = 0.03, standard deviation = 1.8) and 2016/17 (mean = 3.72, standard deviation = 5.4); $t(31) = -3.82$, $p < 0.5$.

²⁵ A paired samples t test revealed a statistically reliable difference between the mean average number of prosecutions in 2015/16 (mean = 0.03, standard deviation = 1.8) and 2016/17 (mean = 0.32, standard deviation = 0.75); $t(30) = -2.19$, $p < 0.5$.

All 8 councils that had taken action were able to provide detail on the outcomes of prosecutions:

- 3 councils stated that 1 or more of their prosecution cases had ended in a conviction against a business (a total of 3 convictions, with a median average of 1 per council).
- 5 councils stated that 1 or more of their prosecution cases had ended in a conviction of an individual, with 5 convictions of individuals and a median average of 1 conviction per council.
- 1 council convicted 1 business as a repeat offender. 1 council convicted one individual each as a repeat offender.

Fines as a result of legal proceedings in relation to the Children and Families Act 2014

5 councils, out of the 7 who reported a prosecution, stated that magistrates had imposed a fine as a result of 1 or more of these convictions. The greatest number of fines (2 fines) were for £201-£300. Table 14 depicts the findings.

Table 14: Level of fine, as a result of fine being imposed by the Magistrates' Court

Level of fine	% of fines
Up to £100	0
£101-£200	17
£201-£300	33
£301-£400	0
£401-£500	17
£501-£1,000	0
£1,001-£1,500	17
£1,501-£2,000	0
£2,001-£2,500	17
Total number of fines	6

Base: All authorities that knew the level of fines for some of their convictions (5)

Restricted sales and premises orders

No restricted sales or premises orders were applied for.

Alternative sanctions

5% of councils imposed 'alternative sanctions' – for example, mandatory attendance on a training course – with a median average of 2 per council and a total of 5.

8 Illicit tobacco products

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

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

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

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

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

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

Findings

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

Regional strategies for illicit tobacco

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

Illicit tobacco control activities with HMRC

47% of all councils had undertaken joint operations with HMRC as part of their activity in relation to illicit tobacco products.

26 HMRC, *Measuring Tax Gaps: Tobacco Tax Gap Estimates 2015-16*, 2016 available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/561322/HMRC-tobacco-tax-gap-estimates-2016.pdf [accessed online 4 May 2017]

27 ONS, *Smoking and Drinking among Adults 2005*, 2006 available at: <http://iasnew.onepiecejigsaw.com/uploads/pdf/UK%20alcohol%20reports/ghs2005-smoking-and-drinking-report.pdf> [accessed online 4 May 2017]

28 NHS, *op.cit.*

29 *ibid*

30 *ibid*

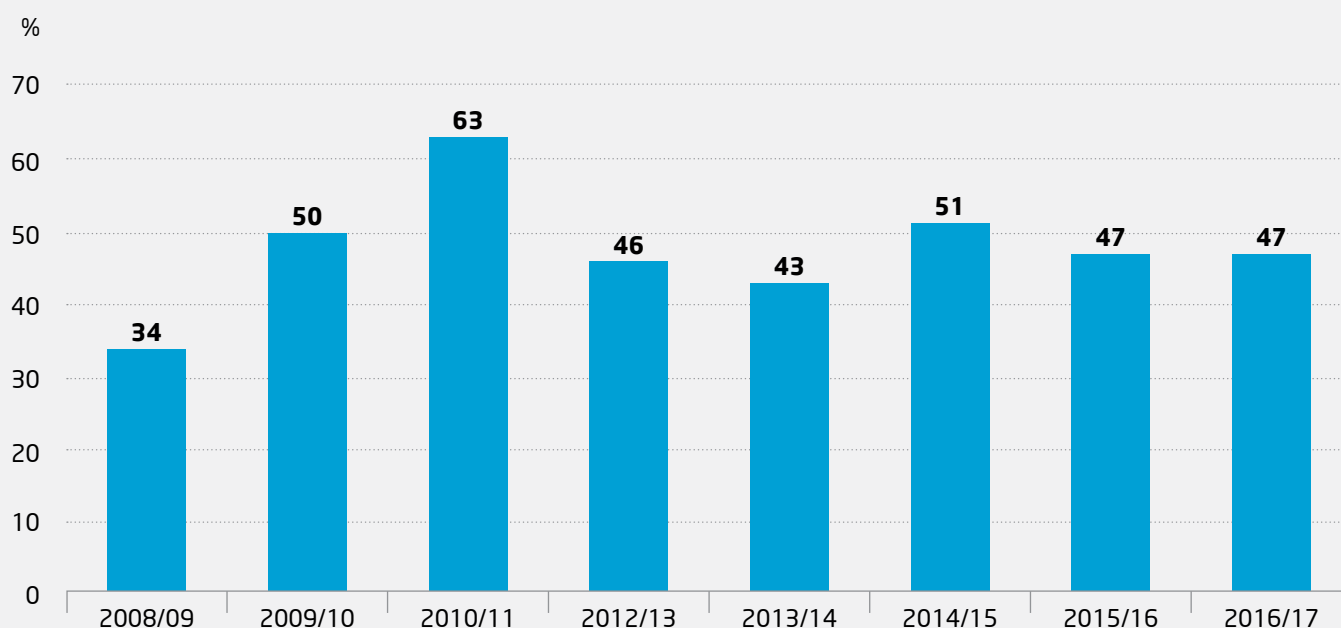
31 *ibid*

32 CTSI, *Operation Henry 1*, 2014 Available at https://www.tradingstandards.uk/media/documents/policy/improving-the-health-of-society/oh_final_for_publication-1.pdf [accessed online 4 May 2017]

33 CTSI, *Operation Henry 2*, 2016 Available at <https://www.tradingstandards.uk/media/documents/policy/improving-the-health-of-society/oh2-final-version-august-15.compressed.pdf> [accessed online 4 May 2017]

34 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, hand-rolling tobacco, etc.

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



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)

Complaints and enquiries

88% of all councils had dealt with complaints and enquiries in relation to the supply of illicit tobacco products.

In total 3,705 complaints and enquiries were received, with a median average of 16 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 4,000 complaints and enquiries about illicit tobacco products were received in England in 2016/17.

Complaints and enquiries received by premises type

Councils were asked to provide a breakdown of the complaints and enquiries received by premises type³⁵.

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; 124 out of 127 councils that had undertaken visits were able to provide this detail.

In total 3,705 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 (16%); the smallest proportion were received about petrol station kiosks and national newsagents (<0.5% for each).

³⁵ For guidance on definitions of premises types please see annex 1. Please note that where 'other' types of premises are referred to throughout this report this could include cafés, leisure facilities and any other type of premises not covered by the main categories.

In comparison to 2015/16 there were:

- Significantly more complaints and enquiries received about small retailers (49% compared to 37% of all complaints and enquiries).
- Significantly more complaints and enquiries received about national newsagents (<0.5% compared to 0 of all complaints and enquiries).
- Significantly more complaints and enquiries received about other types of premises (16% compared to 10% of all complaints and enquiries).
- Significantly fewer complaints and enquiries received about private homes (16% compared to 23% of all complaints and enquiries).
- Significantly fewer complaints and enquiries received about off-licences (7% compared to 11% of all complaints and enquiries).
- Significantly fewer complaints and enquiries received about independent newsagents (6% compared to 10% of all complaints and enquiries).
- Significantly fewer complaints and enquiries received about pubs/clubs (3% compared to 4% of all complaints and enquiries).
- Significantly fewer complaints and enquiries received about markets/car boot sales (1% compared to 2% of all complaints and enquiries).
- Significantly fewer complaints and enquiries received about large retailers (1% compared to 2% of all complaints and enquiries).
- Significantly fewer complaints and enquiries received about petrol station kiosks (<0.5% compared to 1% of all complaints and enquiries).

Table 15: Proportion of complaints and enquiries received by premises type

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

Visits by trading standards officers

88% of all councils had visited premises in relation to illicit tobacco products; a total of 4,874 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 5,300 premises were visited across England in 2016/17 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; 119 out of 127 councils were able to provide this detail.

In total 4,834 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 (24%); the smallest proportion were undertaken at petrol station kiosks, national newsagents and markets/car boot sales (1% for each).

In comparison to 2015/16 there were:

- Significantly more visits undertaken by trading standards officers to off-licences (24% compared to 21% of all visits undertaken).
- Significantly more visits undertaken by trading standards officers to pubs/clubs (4% compared to 1% of all visits undertaken).
- Significantly more visits undertaken by trading standards officers to other types of premises (5% compared to 2% of all visits undertaken).
- Significantly fewer visits undertaken by trading standards officers to small retailers (53% compared to 57% of all visits undertaken).
- Significantly fewer visits undertaken by trading standards officers to national newsagents (1% compared to 2% of all visits undertaken).

Table 16: Proportion of visits by trading standards officers by premises type

Type of premises	Visits undertaken (%)
Small retailer	53
Off-licence	24
Independent newsagent	7
Pub/club	4
Private homes	3
Large retailer	2
National newsagent	1
Market/car boot sale	1
Petrol station kiosk	1
Other	5
Base number of visits	4,834
<i>Number of councils providing data</i>	<i>119</i>

Seizure of illicit tobacco products

79% of all councils undertaking work in relation to illicit tobacco products had seized illicit tobacco products.

93 out of the 107 councils that had seized illicit tobacco products were able to provide detail across each illicit tobacco product on the amount seized; the 3 most frequently seized illicit tobacco products were:

- Cigarette brands that are not for legitimate sale in the UK were seized by 75% of councils, with a median average of 10,148 sticks per council.
- Genuine non-UK duty paid cigarettes were seized by 67% of councils, with a median average of 8,498 sticks per council.
- Counterfeit cigarettes were seized by 67% of councils, with a median average of 7,264 sticks per council.

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

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

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

Cigarette brands that are not for legitimate sale in the UK³⁶

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

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

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

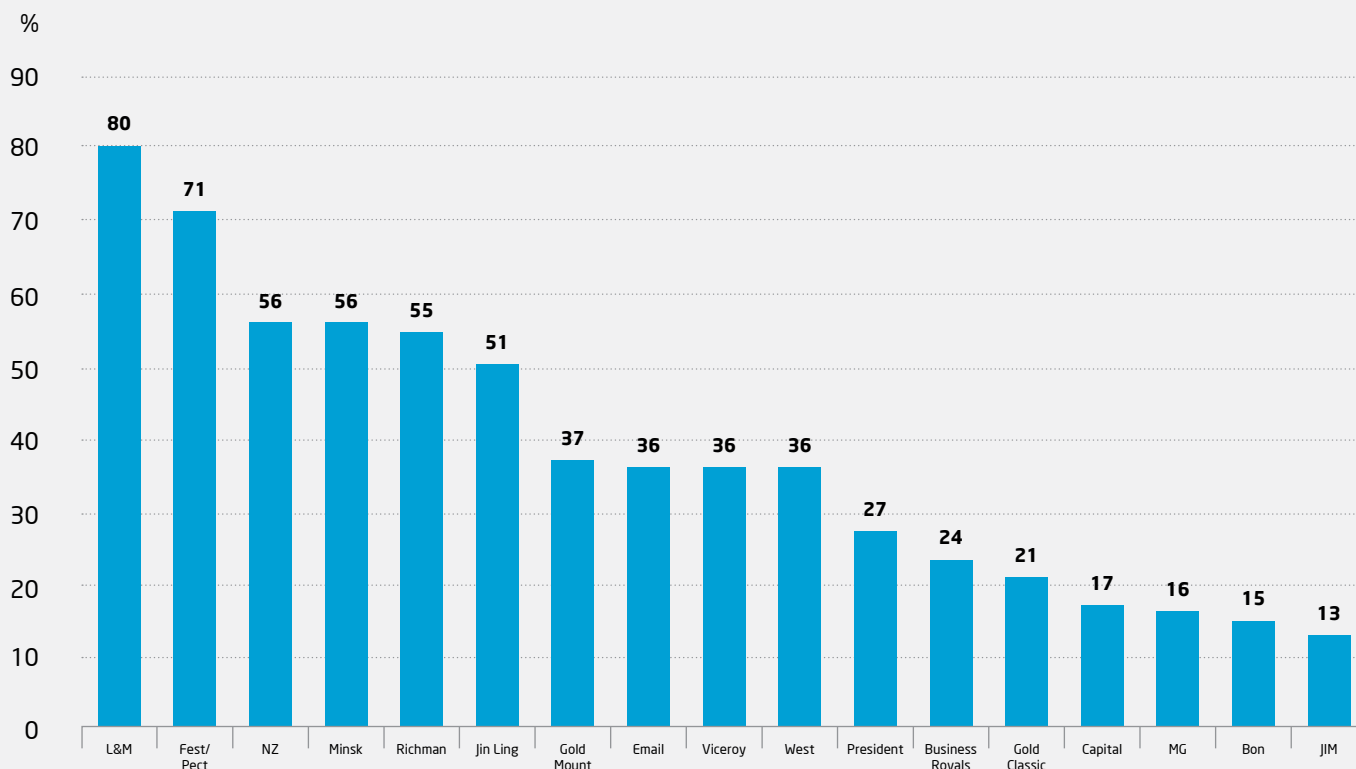
In comparison to 2015/16:

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

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

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

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

Figure 10: Cigarette brands not for legitimate sale in the UK seized by more than 10 councils

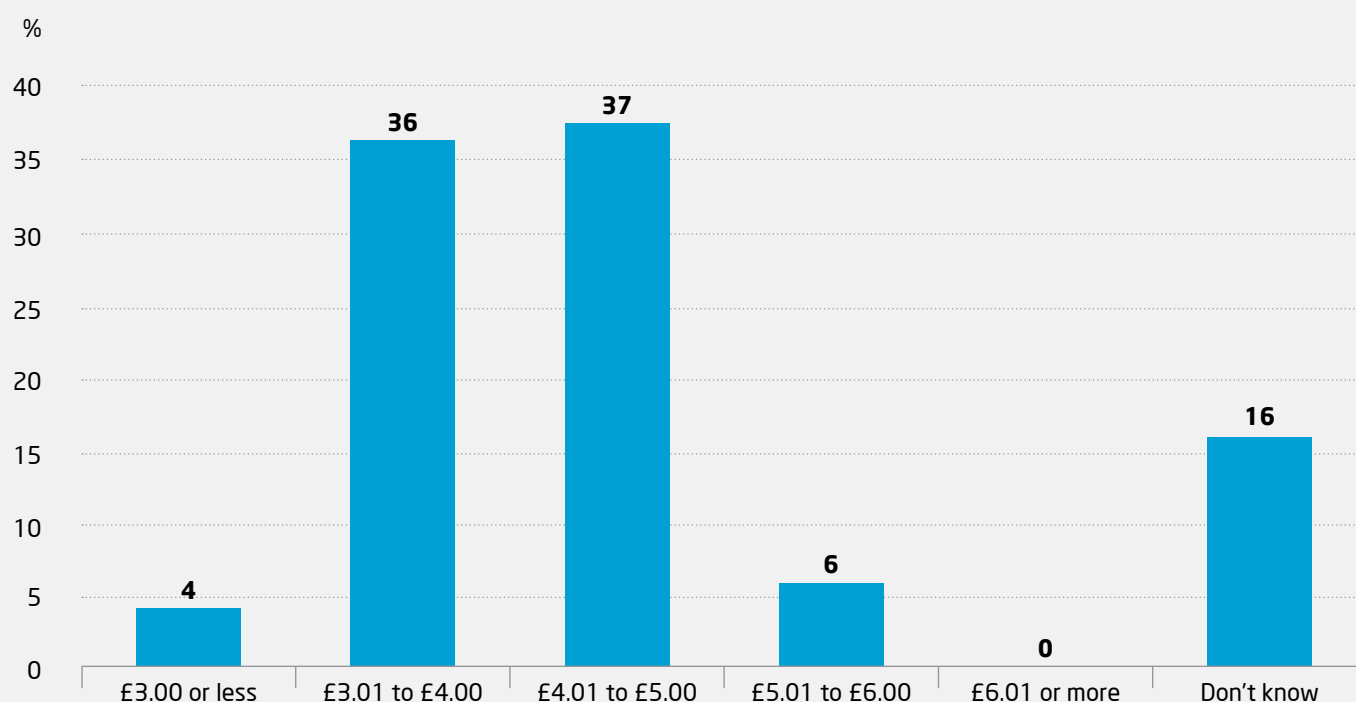
Base: All councils that reported seizing cigarette brands that are not for legitimate sale in the UK (75)

Any illicit cigarettes seizures: average intended sales price

All 81 respondents that reported seizures of illicit cigarettes were asked to select the average intended sale price of the cigarettes seized.

37% of councils reported that the average intended sales price was £4.01 to £5.00, whilst 36% of councils reported that the average intended sales price was £3.01 to £4.00.

No councils reported that the average intended sales price of cigarettes was or £6.01 or greater. 16% of councils did not know the average intended sales price of the seized illicit cigarettes.

Figure 11: On average, what was the intended sales price for illicit cigarettes seized between 1 April 2016 and 31 March 2017?

Base: All councils that reported seizing cheap white cigarettes, counterfeit cigarettes or genuine non-UK-duty-paid cigarettes (70)

Illicit cigarette seizures: countries of origin

Respondents that reported that illicit cigarettes had been seized were asked to provide detail on the 2 countries that these illicit cigarettes most commonly originated from.

The 2 countries most frequently mentioned were Poland (36 councils) and Russia (19 councils).

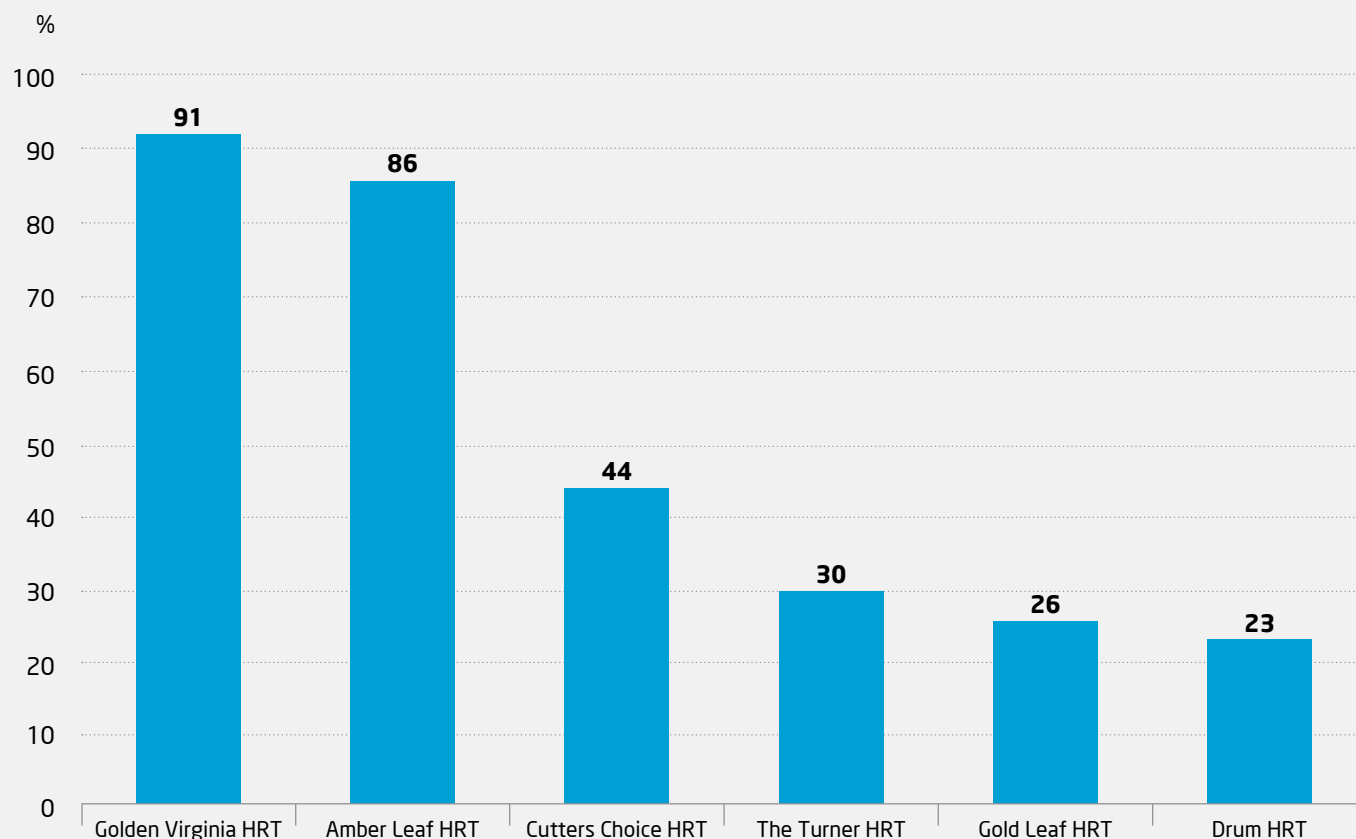
Illicit hand-rolling tobacco brands

Of the 88 councils³⁹ that stated that they had seized illicit hand-rolling tobacco, the 3 brands that were most frequently reported being seized were:

- Golden Virginia (91% of councils).
- Amber Leaf (86% of councils).
- Cutters Choice (44% of councils).

Other types of illicit hand-rolling tobacco were mentioned by 13% of councils.

³⁹ This is all councils stating they seized, not just those who could provide data on the seizure of all products.

Figure 12: Illicit hand-rolling tobacco brands seized by 10 or more councils

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

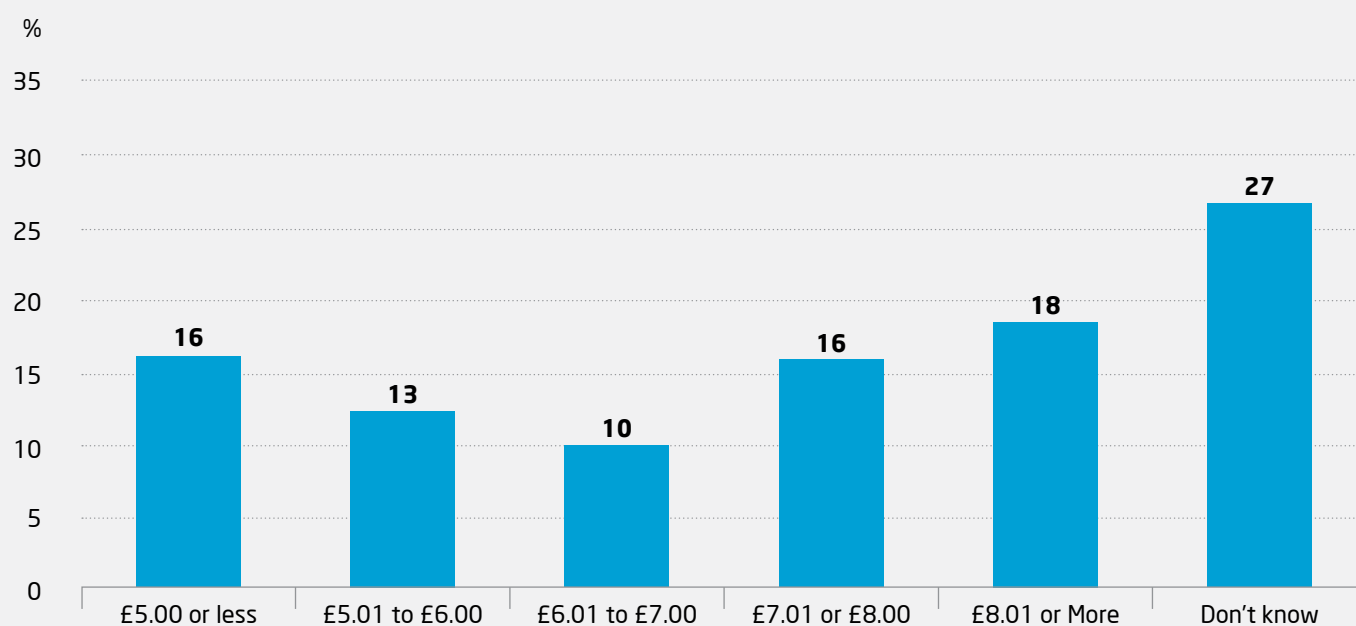
Illicit hand-rolling tobacco seizures: average intended sales price

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

27% of councils did not know the average intended sales price of the seized hand-rolling tobacco. Of the remaining councils the greatest proportion (18%) selected £8.01 or more, followed by 16% selecting either £7.01 to £8.00 or £5.00 or less.

The smallest proportion of councils (10%) reported that the average intended sales price was £6.01 to £7.00.

Figure 13: On average, what was the intended sales price for illicit hand-rolling tobacco seized between 1 April 2016 and 31 March 2017?



Base: all councils that reported seizing non-UK-duty-paid hand-rolling tobacco or counterfeit hand-rolling tobacco (88)

Illicit hand-rolling tobacco seizures: countries of origin

Respondents that reported that hand-rolling tobacco had been seized were asked to provide detail on the 2 countries that this illicit hand-rolling tobacco most commonly originated from.

The 2 countries most frequently mentioned were Poland and Belgium (22 councils for both countries).

Actions taken in relation to illicit tobacco products

All councils that had undertaken activity in relation to illicit tobacco products (135 councils) were asked to provide detail about what, if any, types of actions had been undertaken.

121 councils could provide detail on actions taken; written or verbal warnings were the most common type of action to be taken by councils (55%), followed by 27% issuing simple cautions.

Among councils reporting levels of activity in 2015/16 and 2016/17, matched sample analysis indicated there was a statistically significant decrease in the mean average number of cautions issued from 1 in 2015/16 to 0.5 in 2016/17⁴⁰.

⁴⁰ A paired samples t test revealed a statistically reliable difference between the mean average number of cautions issued in 2015/16 (mean = 0.92, standard deviation = 1.68) and 2016/17 (mean = 0.62, standard deviation = 1.53); $t(106) = 2.06$, $p < 0.05$.

Table 18: 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	55	3	121
Simple cautions issued	27	2	121

Prosecutions relating to illicit tobacco products

Of the councils that had provided detail on the number of actions taken (121), 48% had taken formal legal action. The median number of prosecutions was 2 per council, with 372 prosecutions in total. 51 out of the 58 councils could provide detail on the outcomes of their prosecutions.

Among councils reporting levels of activity in 2015/16 and 2016/17, matched sample analysis indicated there was a statistically significant decrease in the mean average number of prosecutions from 3 in 2015/16 to 2 in 2016/17⁴¹.

19 out of the 51 councils stated that 1 of their prosecutions ended in a business conviction by 31 March 2017 (a total of 43 convictions, with a median average of 1 conviction per council). 10 councils reported that they convicted repeat offenders, with a total of 14 repeat offenders being convicted, with a median of 1 per council.

42 out of 51 councils stated that 1 of their prosecutions ended in a conviction of an individual by 31 March 2017 (a total of 179 convictions, with a median average of 2 convictions per council). 24 councils reported that they convicted repeat offenders, with a total of 48 repeat offenders being convicted and a median average of 2 individual repeat offenders being convicted per council.

6 councils reported that no prosecutions had ended in a business conviction or the conviction of an individual by 31 March 2017.

Fines as a result of legal proceedings

44 of the 45 councils that stated that their prosecutions had ended in either a business conviction or a conviction of an individual reported that a penalty/sanction was imposed by a court. 41 out of 44 could provide detail on the level of fines imposed.

33 out of the 41 stated that magistrates had imposed a fine as a result of 1 or more of these convictions. 43% of the fines imposed were under £500, with 19% being of a value of £501-£1,000 and 18% over £2,500. Table 19 depicts the findings.

Table 19: Level of fine, as a result of fine being imposed by the Magistrates' Court

Level of fine	Percentage of fines
Up to £500	43
£501-£1,000	19
£1,001-£1,500	12
£1,501-£2,000	5
£2,001-£2,500	3
Over £2,500	18
Base number of visits	138

Base: All authorities that knew the level of fines for some of their convictions (41)

⁴¹ A paired samples t test revealed a statistically reliable difference between the mean average number of prosecutions in 2015/16 (mean = 3.25, standard deviation = 7.45) and 2016/17 (mean = 2.14, standard deviation = 4.03); t(106) = 2.00, p < 0.5).

Community order and custodial sentences imposed by a Magistrates' Court

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

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

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

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

9 Display and pricing of tobacco products

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

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

Findings

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

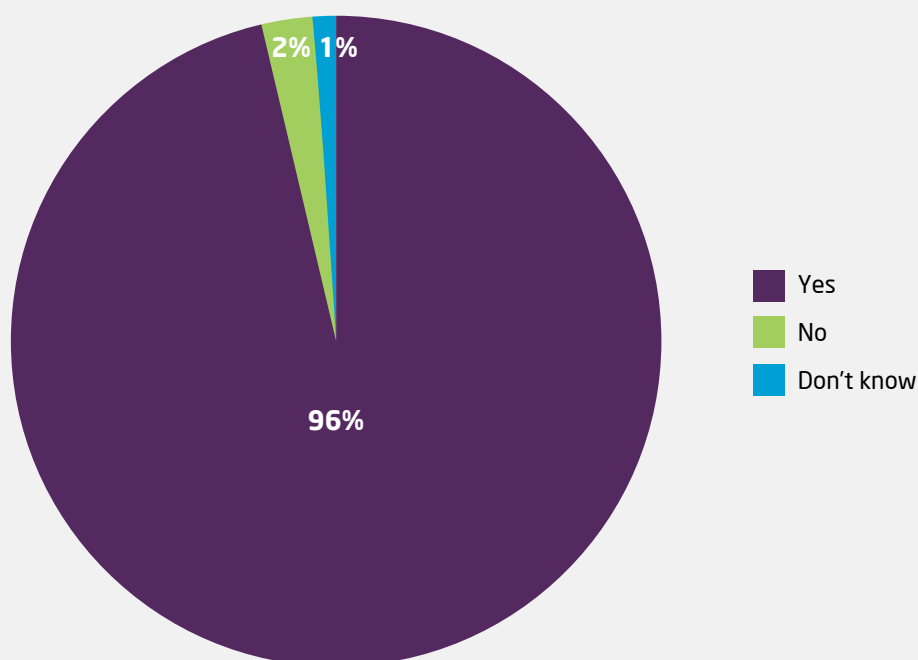
Compliance visits

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

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

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

Figure 14: Did your authority carry out compliance visits at retail premises between 1 April 2016 and 31 March 2017?



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

67 out of 81 councils that had carried out compliance visits at retail premises to check for display requirements were able to provide detail of the outcome. 45 out of 62 councils that had carried out compliance visits at retail premises to check for pricing requirements and were able to provide detail on the outcome:

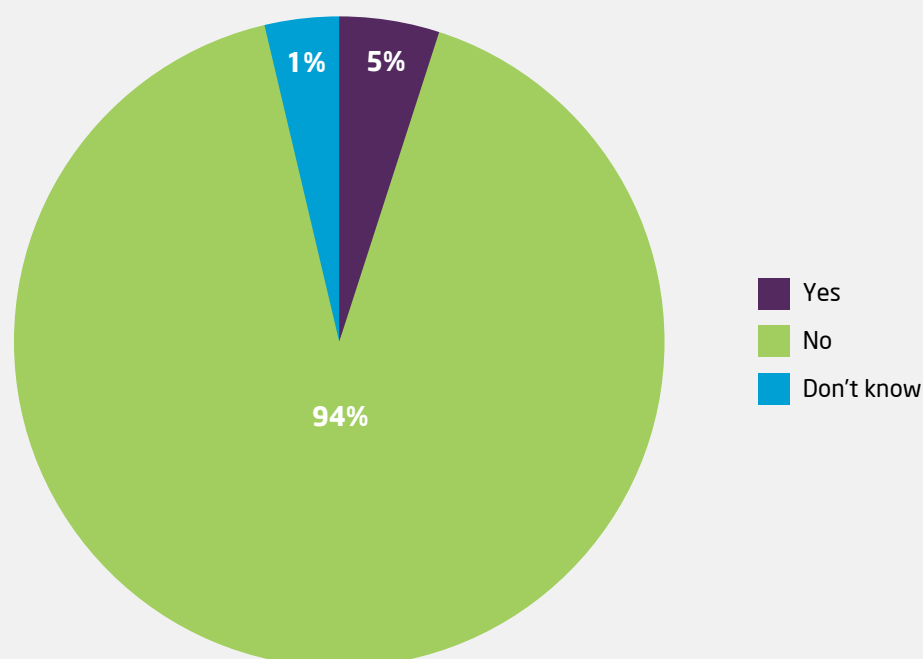
- Of 3,369 visits by councils in relation to display requirements, 92% were compliant with display requirements.
- Of 3,015 visits by councils in relation to pricing requirements, 99% reported compliance with pricing requirements.

Of note, significantly more visits resulted in requirements with pricing compliance in 2016/17 (99% in 2016/17 compared to 98% in 2015/16).

Table 20: Please provide the number of visits to retail premises with each of the following outcomes

Outcome	Proportion of visits	Median number per council (in councils taking action only)	Total number of visits
Compliance with display requirements	92	28	3,671
Compliance with pricing requirements	99	31	3,015

5% of councils undertaking work in relation to the display and pricing of tobacco products carried out compliance visits at wholesale/cash and carry businesses. 94% of councils did not and 1% did not know.

Figure 15: Did your authority carry out compliance visits at wholesale/cash and carry type businesses?

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

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

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

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

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

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

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

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

Table 22: In relation to display and pricing compliance, 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	94	4	33
Simple cautions issued	12	3	33

Of the councils that reported on the actions undertaken (33 councils), 2 had taken formal legal action. The median number of prosecutions was 2 per council, with 2 prosecutions in total.

Both councils were able to provide detail on the outcomes of prosecutions; these councils stated that their prosecution cases against an individual had ended in a conviction. There were no business convictions.

Neither of the prosecutions was against a repeat offender.

Fines as a result of legal proceedings

Both prosecutions ended in a fine being awarded by a Magistrates' Court. Both fines were up to £500.

Community order and custodial sentences imposed by a Magistrates' Court

Neither prosecution resulted in a community order or custodial sentence being imposed by a Magistrates' Court.

10 Tobacco and Related Products Regulations 2016 (TRP)

The Tobacco and Related Products Regulations 2016⁴⁴ were made under the European Tobacco Products Directive ('TPD') and include regulations on the labelling of tobacco products, emissions and special requirements for electronic cigarettes and their advertising. The new Regulations were implemented in May 2016 but with a transition period through to May 2017.

*"The new packaging rules are important to help to reduce the appeal of tobacco products to consumers (particularly young people), to prevent misleading statements as to benefits of tobacco products, to increase the noticeability of required health warnings and, ultimately, to reduce smoking rates."*⁴⁵

Findings

66% of all councils had undertaken tobacco control activities in relation to the Tobacco and Related Products Regulations 2016.

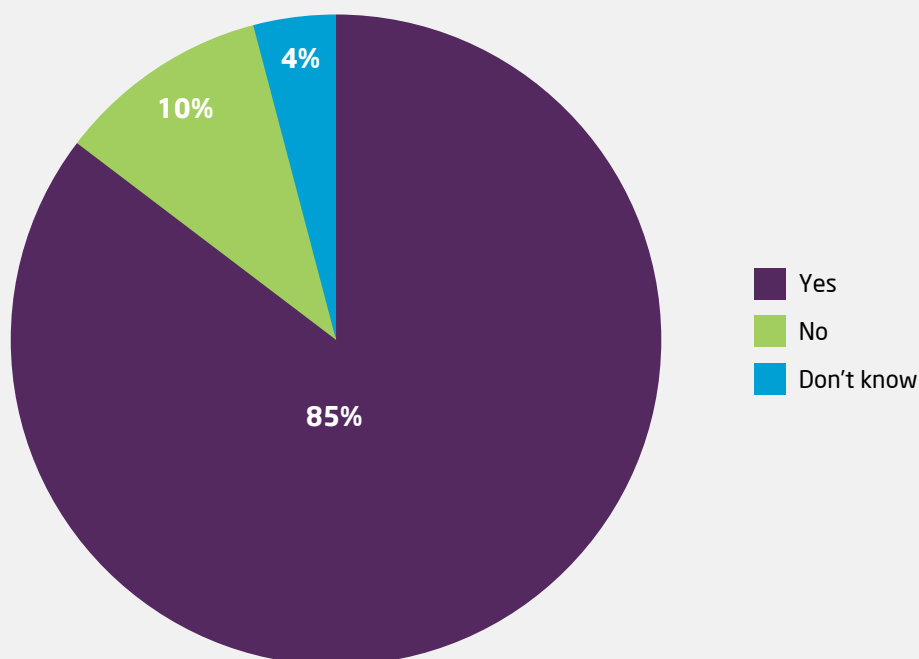
Guidance to business about TRP Regulations

85% of councils that had undertaken activities in relation to TRP Regulations had provided guidance to businesses about the Regulations. 10% had not provided guidance to businesses and 4% did not know.

⁴⁴ Tobacco and Related Products Regulations 2016 available at: <http://www.legislation.gov.uk/uksi/2016/507/contents/made> [accessed online 28 April 2017]

⁴⁵ Tobacco Packaging Guidance, Department of Health, March 2017 available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/596139/Tobacco_Packaging_Guidance.pdf [accessed online 28 April 2017]

Figure 16: Did your authority provide guidance to businesses in 2016/17 about the new TRP Regulations?



Base: All councils undertaking tobacco control activities in relation to TRP Regulations (96)

64 of the 82 councils that stated they have provided guidance to business were able to provide detail on the number of businesses they had supplied guidance to about tobacco supply (including for niche tobacco products) and nicotine inhaling products.

Of these 64 councils, 41% had provided guidance about tobacco supply to a total of 3,313 businesses and a median average of 30 businesses per council. 92% had provided guidance about nicotine inhaling products to a total of 3,885 businesses and a median average of 9 businesses per council.

The 59 councils that reported providing guidance about nicotine inhaling products were asked what types of guidance were most often sought as a main issue, and what types of guidance were sought as secondary issues. The majority (53%) stated that they had provided guidance on product information and labelling as a main issue, whilst 24% did not know.

Secondary issues included:

- Product requirements (31%).
- Product presentation (22%).
- Advertising of products (20%).
- Product information and labelling (20%).

Table 23: Thinking about nicotine inhaling products, what issues, if any, have these businesses sought your advice on?

Issue	% stating main issue	% stating other issue
Notification procedure	5	10
Annual reporting requirement	0	2
Product requirements	8	31
Product information & labelling	53	20
Product presentation (see regulation 38)	5	22
Advertising of products	5	20
Businesses have not sought our advice on other issues	0	14
Don't know	24	5
Base	59	

11 Standardised Packaging of Tobacco Products Regulations 2015 (SPoT)

Australia was the first country in the world to require cigarettes to be sold in plain, standardised packaging, in December 2012. The United Kingdom became the second country to pass similar legislation with the Standardised Packaging of Tobacco Regulations 2015⁴⁶ implemented in May 2016, with a transition period through to May 2017.

Figure 17: Packaging compliant with EU Tobacco Products Directive and SPoT Regulations⁴⁷



Findings

30% of all councils had undertaken tobacco control activities in relation to the Standardised Packaging of Tobacco Products Regulations 2015 (SPoT); however, this relatively low level of activity is likely to be as a result of the transition period allowed for these Regulations to enter fully into force.

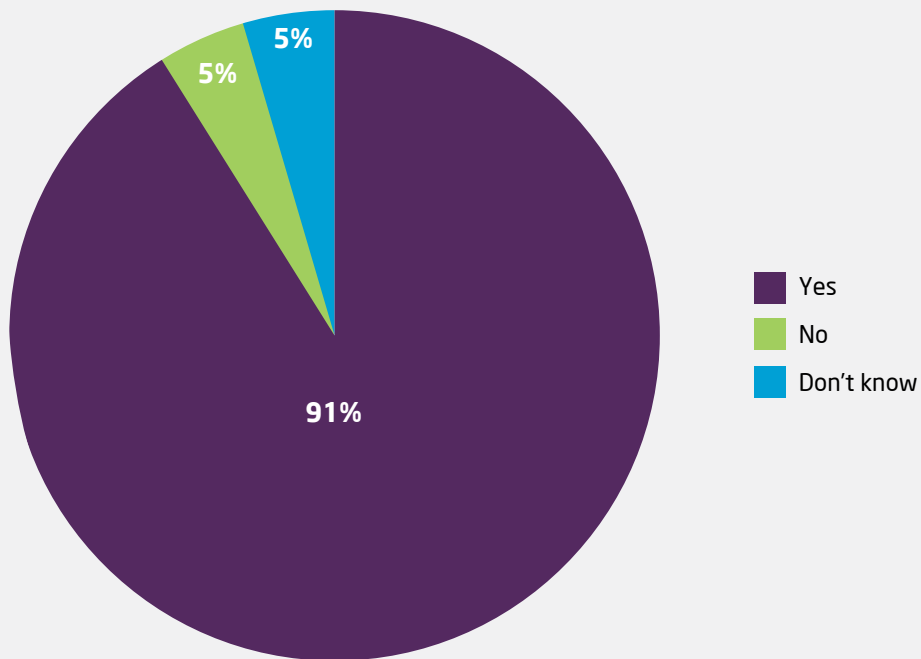
Guidance to businesses in 2016-17 about SPoT Regulations

Of the 44 councils undertaking activity in relation to SPoT, 91% provided guidance to businesses in 2016/17 about the new SPoT Regulations, 5% had not and 5% did not know.

⁴⁶ Standardised Packaging of Tobacco Regulations 2015 available at: <http://www.legislation.gov.uk/ukxi/2015/829/contents/made> [accessed online 2 May 2017]

⁴⁷ Department of Health : Tobacco Packaging Guidance, 2017 available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/596139/Tobacco_Packaging_Guidance.pdf [accessed online 8 August 2017]

Figure 18: Did your authority provide guidance to businesses in 2016/17 about the new SPoT Regulations?



Base: All councils undertaking tobacco control activities in relation to SPoT Regulations (44)

33 of the 40 councils providing guidance to businesses about SPoT Regulations stated the number of business they had given advice to.

12 Article 5.3 of the Framework Convention on Tobacco Control

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

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

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

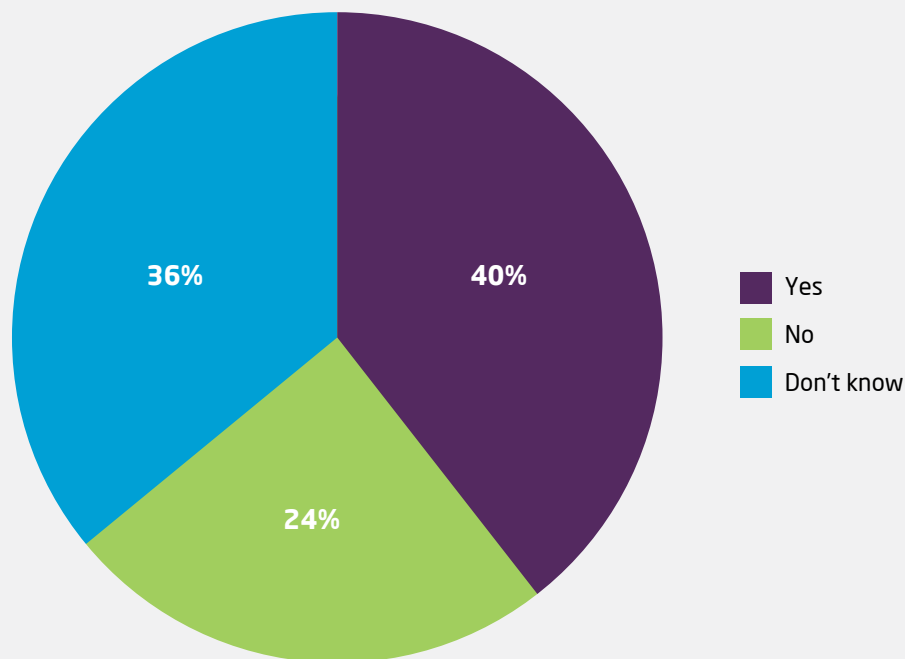
Two fifths of councils (40%) stated that they did, with 21% stating that they did not, and a third (36%) stating that they did not know.



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

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

Figure 19: 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 2016/17 financial year?

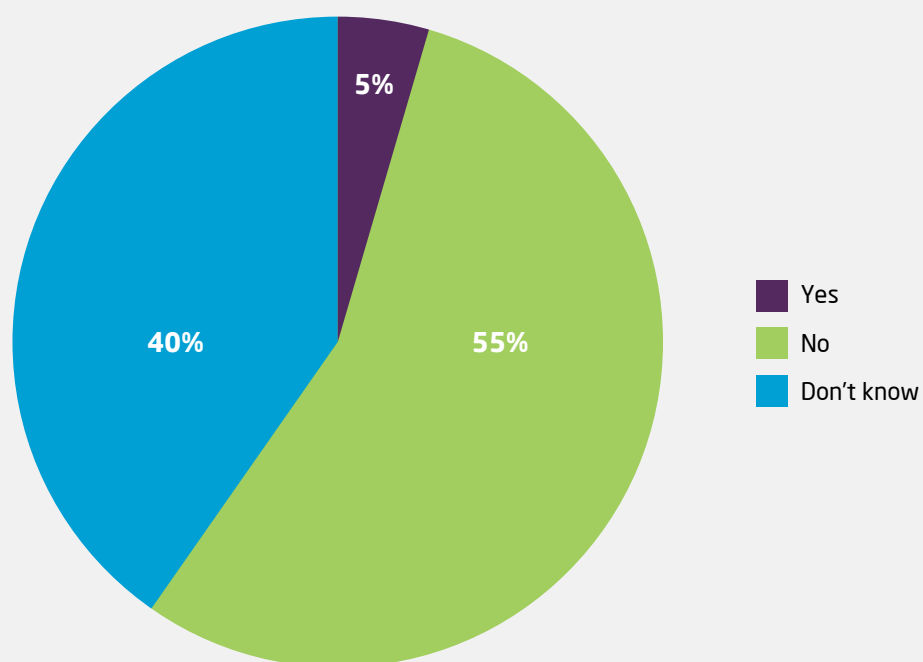


Base: All councils (145)

All councils that 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 2016/17.

The majority of councils (55%) stated that their trading standards service did not. Two-fifths (40%) stated that they did not know if their trading standards service had a policy in place, while 5% stated that their trading standards service did.

Figure 20: 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 2016-2017 financial year?



Base: All respondents stating that their council did not have, or did not know if they had, a policy in relation to FCTC (87)



13 Conclusion

There has been some change in the types and level of tobacco control activity undertaken by trading standards in 2016/17 compared to 2015/16. The number of councils undertaking work in relation to the display and pricing of tobacco products has decreased significantly from 79% to 56%.

However, work related to illicit tobacco activities has remained the activity most frequently undertaken by councils (93% of councils). The work least likely to be undertaken was providing advice or guidance to businesses about SPoT (30% of councils).

Underage sales: tobacco products

Levels of activity in relation to underage sales of tobacco products remained broadly the same as in 2015/16. Broadly the same proportion of councils received complaints and enquiries and undertook visits with trading standards officers; the average number of complaints and enquiries and visits also remained the same.

The sales levels for test purchases remained broadly the same in 2016/17 (at 10%) as for the last four years. Where the number of visits was over 20, the greatest percentage of sales occurred at petrol station kiosks in comparison to national newsagents in 2015/16. However, the overall proportion of sales was not significantly different.

The level of actions (verbal warnings, simple cautions and prosecutions) remained broadly the same. The data on fines was collected at a more granular level in 2016/17; although the greatest proportion of fines were still under £500 (40% imposed were £201-£300, with another 40% at £401-£500).

Underage sales: NIPs

This is the second year that data has been collected about NIPs; there were some changes in levels of activity.

Although the number of councils receiving complaints and enquiries remained broadly the same, there was an increase in the average number of complaints and enquiries received from 2 in 2015/16 to 4 in 2016/17. However, despite this increase, the average number of visits by trading standards officers remained broadly the same.

The proportion of councils undertaking test purchase operations for NIPs remained broadly the same; however, there was a statistically significant decrease in the average number of visits undertaken with volunteer children from 11 in 2015/16 to 8 in 2016/17, and a significantly significant decrease in the average number of sales from 4 in 2015/16 to 3 in 2016/17.

Of note, the sales rate decrease from 36% in 2015/16 to 31% in 2016/17, which was a statistically significant decrease. However, the sales rate in each type of premises remained broadly the same, with markets/car boot sales having the highest sales rate in a premises where more than 20 visits had been undertaken.

Action was reported by 52% of councils, which was of a similar level to 2015/16. Where action was taken this was, for the vast majority of councils, likely to be the issue of a verbal warning. Prosecutions remained rare with 12% of councils reporting taking formal legal action.

Of note, however, where action was taken, there has been an increase in more sizeable penalties. There was a statistically significant decrease in the average number of verbal warnings issued by councils reporting in 2015/16 and 2016/17 (decreasing from 6 to 1) whilst there was a significant increase in the average number of cautions issued (from an average of less than 0.5 to 4). Although the average number of prosecutions was still low, there was a statistically significant increase in the number of prosecutions undertaken (from 0.03 to 0.32 per council).

Illicit tobacco products

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

Brands not for legitimate supply in the UK were the products most likely to be seized. Whilst in 2015/16 this was genuine non-UK duty paid cigarettes. However, the proportion of brands not for legitimate supply in the UK seized remained the same as in 2015/16 (75% of councils reporting seizing in both years). The list of cigarette brands not for legitimate sale in the UK was expanded to reflect some brands that had previously been coded under 'other'. L&M was the most frequently seized brand in 2016/17; Fest/Pect was the second most seized brand. Of note, 38% of councils listed other brands, showing the variation of cheap white cigarettes that are available.

Although the number of councils reporting taking action against illicit tobacco products remained broadly the same; on average, councils that issued cautions reported issuing fewer than in 2015/16 (decreasing from 1 per council to just 0.5), as did prosecutions (decreasing from 3 to 2 prosecutions).

In addition to asking about fines issued – which remained low, typically at less than £500 – councils were for the first time asked about community orders and custodial sentences imposed as a result of prosecutions. Typically where imposed these were community orders (for just under half of councils) with custodial sentences imposed for 9 prosecutions.

Display and pricing of tobacco products

Levels of activity in relation to display and pricing of tobacco products decreased in 2016/17, with a significant decrease in the number of councils undertaking this activity.

However, where this activity was undertaken, nearly all councils undertaking this work (96%) carried out compliance visits at retail premises; the vast majority of visits undertaken were compliant with both display and pricing requirements (92% and 99% of all visits respectively).

This is compared to very few councils undertaking visits to wholesale/cash and carry businesses (just 5%). Very few visits had been undertaken (only 16); however, nearly all were compliant with both display and pricing requirements.

Typically where action was taken, for the majority of councils (94%) this was written or verbal warnings. Only 2 fines were issued.

Tobacco and Related Products Regulations 2016

For the first year, councils provided data on the TRP Regulations. Nearly all councils (85%) that had undertaken activities in relation to the TRP Regulations had provided guidance to business about the Regulations. The majority had provided guidance about product information and labelling.

Standardised Packaging of Tobacco Product Regulations 2015

For the first year, councils provided data on the SPoT regulations; however, only 30% of councils had undertaken activity in this area. Of those that had undertaken activities, the majority had provided guidance to businesses.

Article 5.3 of the Framework Convention on Tobacco Control

Broadly the same proportion of councils (40%) in 2016/17 as in 2015/16 had a written policy in relation to Article 5.3 of the Framework Convention on Tobacco Control (FCTC).

Annex 1: Underage sales of tobacco products – definitions of premises types

Premises	Guidance/Examples
Large retailer	National – e.g. Tesco, Sainsbury's, Waitrose, Asda.
Small retailer	Lo-Cost, NISA, SPAR etc; 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 premises.
Private homes	Domestic dwellings.
Other	Café, leisure facility.

Annex 2: Underage sales of NIPs – definitions of premises types

Premises	Guidance/Examples
Specialist e-cigarette supplier	Self-explanatory.
Large retailer	National e.g. Tesco, Sainsbury's, Waitrose, Asda.
Convenience store/grocer	Lo Cost, NISA, SPA; could be members of the ACS.
National newsagent	Martin McColl, WH Smith.
Independent newsagent	Not part of a chain as above; could be members of NFRN.
Pharmacy National chain	Lloyds, Boots, Cooperative.
Pharmacy Independent	Self-explanatory.
Market/car boot sale	Self-explanatory, plus stalls located within shopping malls.
Discount shop	99p shops, Poundland, Poundstretchers.
Petrol station kiosk	Self-explanatory.
Mobile phone shop	Self-explanatory.
Online retailer	Self-explanatory.
Other	Any other premises type not covered above.

Annex 3: Illicit tobacco definitions

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



The Trading Standards Institute and itsa Limited

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

Tel: 01268 582200 Email: institute@tsi.org.uk

www.tradingstandards.uk