



Chartered Trading
Standards Institute

TOBACCO CONTROL SURVEY, ENGLAND 2017/18

A report of council trading standards service activity





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Summary

This report presents results from a survey of trading standards activities carried out by councils in England during the financial year April 2017 to March 2018.

An online survey was emailed to all councils undertaking tobacco control activities in England in April 2018 (151 councils in total). The deadline for completion of the survey was Friday 18 May 2018. The survey was completed by 143 councils, which is a response rate of 95%. Although this response rate is high, the base for some findings does vary as not every respondent answered every question.

Tobacco control activities

- 99% of responding councils undertook at least one type of tobacco control activity.
- Of all councils in England:
 - ▷ 92% undertook activities related to illicit tobacco products.
 - ▷ 76% undertook activities related to underage sales for tobacco products.
 - ▷ 71% undertook activities related to underage sales for nicotine inhaling products (NIPs).
 - ▷ 71% undertook activities related to the Tobacco and Related Products Regulations 2017 (tobacco products only).
 - ▷ 69% undertook activities related to the display and pricing of tobacco products.
 - ▷ 65% undertook activities related to the Tobacco and Related Products Regulations 2017 (nicotine inhaling products).
 - ▷ 62% undertook activities related to the Standardised Packaging of Tobacco Products Regulations 2015 (SPoT).

Underage sales: tobacco products

- 76% of all councils conducted tobacco control activities in relation to underage sales.
- 66% of all councils dealt with complaints and enquiries about underage sales of tobacco concerning retail premises, receiving 911 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 2017/18.
- 94 out of the 96 councils that received complaints and enquiries concerning retail premises were able to provide detail on the types of premises complaints and enquiries were received about. The greatest proportion of complaints and enquiries were received regarding small retailers (47%).
- 65% of all councils undertook visits by trading standards officers, with 3,600 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 4,000 visits by trading standards officers were undertaken in England in 2017/18 concerning underage sales.
- 88 out of the 93 councils that undertook 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 (51%).
- 58% of all councils (which is 76% of those who conducted activities related to underage sales) 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, all 83 councils had supplied the number of premises visited and resulting sales:
 - ▷ For the 83 councils, the total number of premises visited was 1,716. If this figure is used as an indication of the likely picture in non-responding councils, this would mean an estimated total of around 2,200 premises.
 - ▷ For the 83 councils, 61% reported that cigarettes or tobacco products were sold to the volunteer young persons in at least one premises; cigarettes were sold to underage persons at a total of 166 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 200 premises across England were detected making illegal sales of tobacco products to underage persons in 2017/18.
 - ▷ 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 2016/17 when 10% of test purchase operations resulted in illegal sales of cigarettes.
 - ▷ 82 out of the 83 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 (41%).

- ▷ The greatest proportion of sales, where there were more than 20 visits undertaken, occurred at independent newsagents (18%).

Note: The sales rate is presented only for premises with more than 20 visits, as we consider this a reasonable base size to assess the sales rate.

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

- 50% of all councils (which is 38% of those who conducted activities related to underage sales) stated that action was 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 (78%).
 - ▷ 22% undertook formal legal action (prosecution cases).
 - ▷ Eight councils stated that one or more of their prosecution cases against a business ended in a conviction (resulting in a total of 11 convictions). No business convictions were for 'repeat offenders'.
 - ▷ Two councils stated that one or more of their prosecution cases ended in conviction of an individual (resulting in a total of two individual convictions). One conviction of an individual was for a 'repeat offender'.
 - ▷ Seven councils reported that magistrates imposed a fine as a result of one or more of these convictions. The greatest number (three fines) imposed were between £501 - £1,000.
 - ▷ No councils applied for a restricted sales order or a restricted premises order.

Underage sales: nicotine inhaling products (NIPs)

- 71% of all councils conducted tobacco control activities in relation to underage sales of NIPs.
- 52% of all councils received complaints and enquiries about underage sales of NIPs, with 456 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 475 complaints and enquiries about underage sales of NIPs were received in England in 2017/18.
- All 74 councils that received complaints and enquiries concerning underage sales of NIPs were able to provide detail on the types of premises that complaints and enquiries were received about. The greatest proportion of complaints and enquiries were received regarding specialist e-cigarette suppliers (41%).
- 55% of all councils undertook visits by trading standards officers about NIPs; there were 872 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 900 visits by trading standards officers about underage sales of NIPs were undertaken in England in 2017/18.
- 77 out of the 78 councils that undertook 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 specialist e-cigarette suppliers (36%).
- 32% of all councils (which is 45% of those that conduct activities related to underage sales) carried out visits to retail premises with volunteer young persons (aged under 18) to conduct test purchase operations for NIPs:
 - ▷ This was significantly fewer councils than carried out visits to retail premises with volunteer young persons in 2016/17 (52% of councils in 2016/17).
 - ▷ All 46 councils supplied the number of premises visited; the total number was 437. If this figure is used as an indication of the likely picture in non-responding councils, this would mean an estimated total of around 700 premises across England were visited by volunteer young persons conducting test purchase operations for NIPs in 2017/18.
 - ▷ All 46 councils supplied the number of premises where sales occurred. 70% reported that NIPs were sold to the volunteer young persons in at least one premises; NIPs were sold to underage persons at a total of 121 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 200 premises across England made sales of NIPs to underage young persons in 2017/18.
 - ▷ Illegal sales of NIPs occurred in 28% of test purchase operations.
 - ▷ 45 out of 46 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 specialist e-cigarette providers (30%). The greatest proportion of sales, where more than 20 visits were undertaken, occurred at discount shops (42%).



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

- 28% of all councils (which is 40% of those that conducted activities related to underage sales) stated that action was 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 (80%).
 - ▷ 13% of councils undertook formal legal action (prosecution cases).
 - ▷ Three councils stated that one or more of their prosecution cases against a business ended in a conviction (resulting in a total of four convictions). Three business convictions were for 'repeat offenders'.
 - ▷ Three councils stated that one or more of their prosecution cases ended in conviction of an individual (resulting in a total of five individual convictions). Three convictions of individuals were for 'repeat offenders'.
 - ▷ There were five fines in total; the fines were all at different levels.
 - ▷ No councils applied for a restricted sales order or a restricted premises order.

Illicit tobacco products

- 92% of all councils undertook 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.
- 44% of all councils undertook joint operations with Her Majesty's Revenue and Customs (HMRC).
- 86% of all councils dealt with complaints and enquiries about illicit tobacco products, receiving 4,844 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 5,200 complaints and enquiries about illicit tobacco products were received in England in 2017/18.
- 120 out of the 123 councils that received complaints and enquiries concerning illicit tobacco products were able to provide detail on the types of premises that complaints and enquiries were received about. The greatest proportion of complaints and enquiries were received regarding small retailers (47%).
- 85% of all councils visited premises in relation to illicit tobacco products, undertaking a total of 4,633 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 5,200 premises were visited across England in 2017/18 in relation to illicit tobacco products.
- 122 out of the 124 councils that undertook 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 (58%).
- 82% of all councils stated that they had seized illicit tobacco products; 100 councils out of 108 were able to provide a breakdown of how much, if any, of each product was seized:
 - ▷ The greatest proportion of councils (80%) stated that visits resulted in the seizure of brands of cigarette not for legitimate sale in the UK.
 - ▷ 27 out of 92 councils that seized illicit cigarettes reported that illicit cigarettes were seized in SPoT packaging; the median proportion seized in SPoT packaging for these councils was 5% of all illicit cigarettes.
 - ▷ Nine out of 97 councils that seized illicit hand-rolling tobacco (HRT) reported that HRT was seized in SPoT packaging; the median proportion seized in SPoT packaging for these councils was 5% of all illicit HRT.
 - ▷ The most frequently seized brand of cigarette that is not for legitimate sale in the UK was L&M (by 73% of councils that reported seizing such products).
 - ▷ 29% of councils reported that the average intended sales price of illicit cigarettes seized was £3.01 to £4. It was most frequently stated that illicit cigarettes seized originated from Poland (45 councils) and Russia (14 councils).
 - ▷ 97 councils stated that hand-rolling tobacco was seized. The two brands of HRT most frequently seized were Amber Leaf and Golden Virginia (with 88% of councils that seized HRT stating they seized both brands).
 - ▷ The greatest proportion (25%) of councils seizing hand-rolling tobacco stated that the intended sales price was £8.01 or more. It was most frequently stated that illicit hand-rolling tobacco seized originated from Belgium (24 councils).

Illicit tobacco products: actions taken

- 125 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 (62%).
 - ▷ 56% of councils undertook legal actions (prosecution cases).
 - ▷ 18 councils stated that one or more of their prosecution cases against a business ended in a conviction (resulting in a total of 46 convictions). 13 business convictions were for 'repeat offenders'.
 - ▷ 48 councils stated that one or more of their prosecution cases ended in a conviction of an individual (resulting in a total of 178 convictions of individuals). 29 individual convictions were for 'repeat offenders'.
 - ▷ There were 119 fines in total. Half of fines imposed (59%) were under £500.
 - ▷ 26 out of 43 councils reported that a community order was imposed and could provide detail on the number; in total 55 community orders were imposed.
 - ▷ 14 out of the 43 councils reported that a custodial sentence was imposed and could provide detail on the number; in total 29 custodial sentences were imposed.

Display and pricing of tobacco products

- 69% of all councils conducted tobacco control activities in relation to the display and pricing of tobacco products.
- Significantly more councils undertook work related to the display and pricing of tobacco products in 2017/18 compared to 2016/17 (69% in 2017/18 compared to 56% in 2016/17).
- Of these:
 - ▷ 97% of all councils carried out compliance visits at retail premises; 95% of visits were compliant with display requirements and 99% compliant with pricing requirements.
 - ▷ 3% of all councils carried out compliance visits at wholesale/cash and carry businesses; all eight visits were compliant with both display and pricing requirements.

Display and pricing of tobacco products: actions taken

- 30% of councils that conducted tobacco control activities in relation to the display and pricing of tobacco products stated they took action. All 30 councils provided detail on the action taken. Of these:
 - ▷ Verbal or written warnings were the most common type of action taken by councils (93%).
 - ▷ One council undertook legal action (prosecution cases).
 - ▷ One prosecution ended in a business conviction.
 - ▷ Two prosecutions ended in the conviction of an individual.
 - ▷ The prosecution resulted in a fine of under £500.

Tobacco and Related Products Regulations 2016 (TRPR) for tobacco and related products only

- 71% of all councils undertook tobacco control activities in relation to the TRPR. Of these:
 - ▷ 81% of councils provided detail on the number of visits to assess tobacco product compliance, undertaking 2,639 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 3,000 visits to assess tobacco product compliance in England in 2017/18.
 - ▷ 80 out of the 101 councils were able to provide detail on the types of premises that visits to assess tobacco product compliance were undertaken to. The greatest proportion of visits were undertaken at convenience stores/small retailers (45%).
 - ▷ The tobacco products that were most frequently found to be non-compliant by councils were cigarettes (by 45% of councils).
 - ▷ Convenience stores/small retailers were the premises type where the greatest proportion of councils (80%) reported non-compliant tobacco products being found.



Tobacco and Related Products Regulations 2016 (TRPR) for tobacco and related products only: actions taken

- 64 councils were able to report actions taken in relation to TRPR. Of these:
 - ▷ Verbal or written warnings were the most common type of action taken by councils (92%).
 - ▷ 27% of councils undertook legal actions (prosecution cases).
 - ▷ Four councils stated that one or more of their prosecution cases against a business ended in a conviction (resulting in a total of 16 convictions). Five business convictions were for 'repeat offenders'.
 - ▷ 12 councils stated that one or more of their prosecution cases ended in a conviction of an individual (resulting in a total of 74 convictions of individuals). 17 individual convictions were for 'repeat offenders'.
 - ▷ There were 51 fines in total. Just over two thirds of the fines imposed (67%) were under £500.
 - ▷ Six out of 12 councils reported that a community order was imposed and could provide detail on the number; in total 17 community orders were imposed.
 - ▷ Four out of the 12 councils reported that a custodial sentence was imposed and could provide detail on the number; in total six custodial sentences were imposed.

Tobacco and Related Products Regulations 2016 (TRPR) for nicotine inhaling products only (NIPs)

- 65% of all councils undertook tobacco control activities in relation to the TRPR for NIPs. Of these:
 - ▷ 91% of councils provided detail on the number of visits to assess compliance with TRPR for NIPs, undertaking 1,368 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 1,500 visits to assess compliance of NIPs with TRPR in England in 2017/18.
 - ▷ 82 out of the 85 councils were able to provide detail on the types of premises where visits were undertaken to assess NIPs compliance with TRPR.
 - ▷ The greatest proportion of visits were undertaken to specialist e-cigarette suppliers (41%).
 - ▷ The NIPs that were most frequently found to be non-compliant were refill products (by 66% of councils).
 - ▷ Specialist e-cigarette suppliers were the premises type where the greatest proportion of councils (64%) reported non-compliant NIPs being found.

Tobacco and Related Products Regulations 2016 (TRPR) for nicotine inhaling products only: actions taken

- 56 councils were able to report actions taken in relation to TRPR for NIPs. Of these:
 - ▷ Verbal or written warnings were the most common type of action taken by councils (86%).
 - ▷ One council undertook legal action (prosecution cases).

Standardised Packaging of Tobacco Products Regulations 2015 (SPoT)

- 62% of all councils undertook tobacco control activities in relation to SPoT. Of these:
 - ▷ 92% of councils provided detail on the number of visits to assess compliance with SPoT, undertaking 2,797 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 3,000 visits to assess compliance with SPoT in England in 2017/18.
 - ▷ 78 out of the 89 councils were able to provide detail on the types of premises where visits were undertaken to assess tobacco product compliance. The greatest proportion of visits were undertaken at convenience stores/small retailers (45%).
 - ▷ The tobacco products that were most frequently found to be non-compliant with SPoT by councils were cigarettes (by 65% of councils).
 - ▷ Convenience stores/small retailers were the premises type where the greatest proportion of councils (77%) reported non-compliant tobacco products being found.

Standardised Packaging of Tobacco Products Regulations 2015 (SPoT): actions taken

- 47 councils were able to report actions taken in relation to SPoT. Of these:
 - ▷ Verbal or written warnings were the most common type of action taken by councils (87%).
 - ▷ 21% of councils undertook legal actions (prosecution cases).
 - ▷ Two councils stated that one or more of their prosecution cases against a business ended in a conviction (resulting in a total of four convictions). Three business convictions were for 'repeat offenders'.
 - ▷ Five councils stated that one or more of their prosecution cases ended in a conviction of an individual (resulting in a total of 12 convictions of individuals). Four individual convictions were for 'repeat offenders'.
 - ▷ There were nine fines in total. The greatest number of fines were between £501 - £1,000 and £1,001 - £1,500 (three fines of each level).
 - ▷ One council reported that community orders were imposed, but could not provide detail on how many were imposed.
 - ▷ One council reported that one custodial sentence was imposed.

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

- 43% 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 sixth *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 2017 and March 2018; the survey has been supported by the Department of Health and Social Care (DHSC). It includes questions made at the request of Her Majesty's Revenue and Customs (HMRC) in relation to the nature of the illicit tobacco market at the local level in England.

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

- Conducting 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.
- 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.
- Assessing of compliance with the Tobacco and Related Products Regulations 2016 (TRPR) and the Standardised Packaging of Tobacco Products Regulations 2015 (SPoT) across a variety of business settings.

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

Context

Since the last *Tobacco Control Survey* report for 2016-17, the DHSC has published *Towards a Smokefree Generation: a Tobacco Control Plan for England*¹. The new five-year plan describes the overall vision of the Government and the ambitions designed to deliver it:

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

1. The first smokefree generation ...
2. A smokefree pregnancy for all ...
3. Parity of esteem for those with mental health conditions ...
4. Backing evidence based innovations to support quitting".

It is acknowledged that the UK now has comprehensive tobacco control legislation which is the envy of the world. The majority of the legislation is enforced by local trading standards services. This survey provides a unique collection of data illustrating the enforcement activities undertaken during the 2017/18 financial year by these local services.

¹ *Towards a Smokefree Generation: a Tobacco Control Plan for England* (2017) available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/630217/Towards_a_Smoke_free_Generation_-_A_Tobacco_Control_Plan_for_England_2017-2022__2_.pdf [accessed online 18 June 2018]

2 Methodology

The 2017/18 survey questionnaire was developed jointly by the DHSC and CTSI.

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

The link to the 2017/18 online questionnaire was emailed to all single tier councils² on 3 April 2018, and by the end of fieldwork on 18 May 2018 it had been completed by 143 councils, which is a response rate of 95%. 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	27	100
London borough	33	27	82
Metropolitan district	36	35	97
Unitary authority	55	54	98
Base	151	143	95

Table 2: Response rate by region

Region	Total number in region	Number of respondents	Response rate (%)
East of England	11	11	100
East Midlands	9	8	89
London	33	27	82
North East	12	12	100
North West	23	23	100
South East	19	19	100
South West	15	15	100
West Midlands	14	14	100
Yorkshire and the Humber	15	14	93
Base	151	143	95

All figures provided in the main report are with reference to tobacco control activity conducted in England between 1 April 2017 and 31 March 2018, unless otherwise stated.

Figures are reported as a percentage of the total number of respondents to this survey (143), unless otherwise stated.

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

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

² 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 2016/17 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 years³. Please note the 2016/17 survey achieved 145 respondents (a 96% response rate).

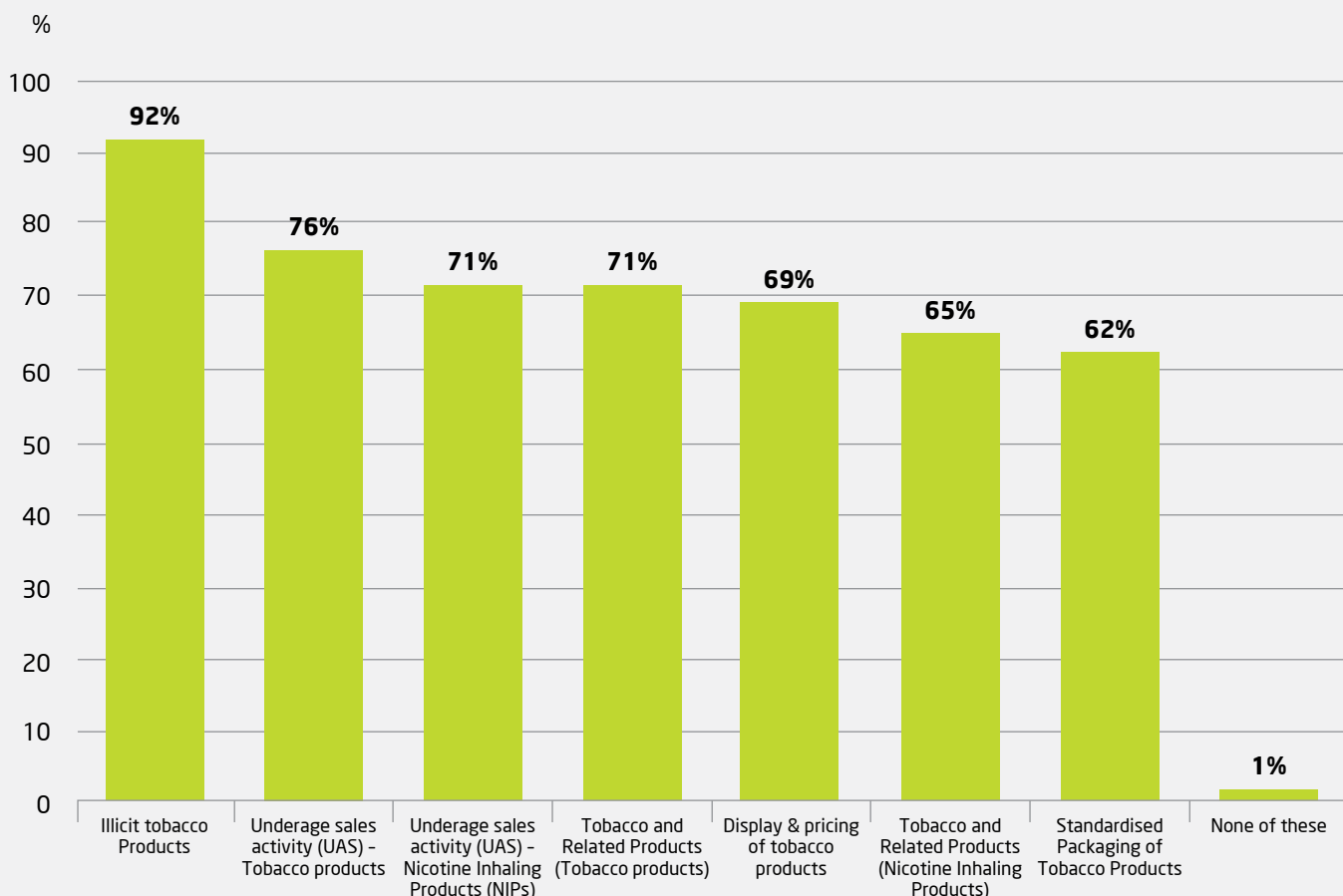
3 Tobacco control activities

Respondents were asked which core tobacco control activities from a list of seven their council undertook in the financial year 2017/18.

99% of councils undertook at least one type of activity. The activity most frequently undertaken was work related to illicit tobacco (92%), with the least common activity (62%) being activities in relation to SPoT.

Significantly more councils undertook work related to the display and pricing of tobacco products in 2017/18 compared to 2016/17 (69% in 2017/18 compared to 56% in 2016/17).

Figure 1: Which, if any, of the following tobacco control activities has your council undertaken in the financial year 2017/18?



Base: all councils (143)

Those that did not undertake any activity (two councils) stated that this was because there was a lack of intelligence to direct this work.

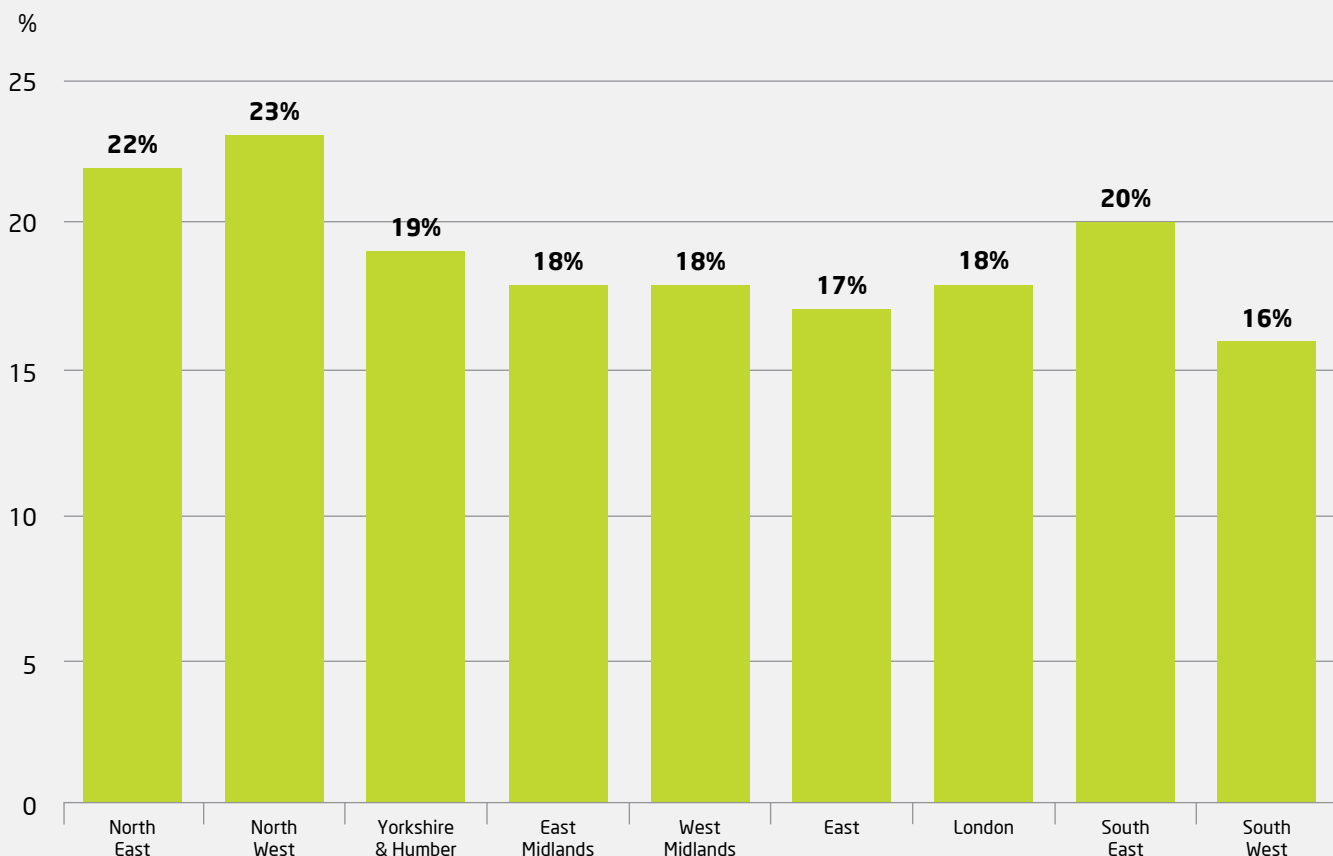
³ Statistically significant differences are those that are not due to random chance; the larger the base size the more likely there will be statistically significant differences

4 Underage sales activity

There is a commitment by the Government to reduce the prevalence of 15-year-olds who regularly smoke to 3% or less by the end of 2022⁴. This is an ambitious target given that 12% of boys and 18% of girls aged 15 describe themselves as current smokers⁵.

There are regional variations too; 23% of young people in the North West report that they have ever smoked whereas in the South West the percentage is 16%⁶.

Figure 2: Percentage of young people that have ever smoked by region



There is however 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. The *Tobacco Control Plan for England* recognises this and includes a commitment to: “Review the data on 16 and 17 year olds to help inform our understanding of the trends in smoking amongst young people”⁷.

4 DHSC Op.Cit

5 Smoking, Drinking and Drug Use Among Young People in England – 2016, 2017 available at <https://digital.nhs.uk/data-and-information/publications/statistical/smoking-drinking-and-drug-use-among-young-people-in-england/2016#key-facts> [accessed online 20 June 2018]

6 ibid

7 DHSC Op.Cit



FINDINGS

76% of all councils conducted activities in relation to underage sales.

Complaints and enquiries received

66% 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 (96 councils), they received a total of 911 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 2017/18.

Complaints and enquiries received by premises type

Councils were asked to provide a breakdown of the complaints and enquiries received by premises type⁸. Analysis has only been conducted where councils received complaints and enquiries, and were able to provide an accurate breakdown across all premises types; 94 out of 96 councils were able to provide this detail.

In total 897 complaints and enquiries were received by these councils, with the largest proportion being received about small retailers (47%), followed by independent newsagents (21%); the smallest proportion were received about markets/car boot sales (<0.5%).

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

Type of premises	Complaints and enquiries received (%)
Small retailer	47
Independent newsagent	21
Off-licence	16
Private home	6
Large retailer	2
National newsagent	2
Petrol station kiosk	2
Pub/club	1
Market/car boot sale	<0.5
Other	4
<i>Base number of complaints and enquiries</i>	<i>897</i>
<i>Number of councils providing data</i>	<i>94</i>

Visits by trading standards officers to premises

65% of all councils reported they undertook visits to premises by trading standards officers in relation to underage sales. In total in 2017/18 3,600 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 4,000 visits in relation to underage sales from retail premises were made by trading standards officers in England in 2017/18.

⁸ 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; 88 out of 93 councils were able to provide this detail.

In total 3,143 visits were undertaken by these councils, with the largest proportion of visits being undertaken at small retailers (51%), followed by off-licences (17%); the smallest proportion were undertaken at private homes (<0.5%).

Compared to 2016/17:

- Significantly more visits by trading standards officers were undertaken to small retailers (51% compared to 44% of all visits).
- Significantly more visits by trading standards officers were undertaken to independent newsagents (14% compared to 12% of all visits).
- Significantly more visits by trading standards officers were undertaken to large retailers (5% compared to 4% of all visits).
- Significantly more visits by trading standards officers were undertaken to national newsagents (3% compared to 2% of all visits).
- Significantly more visits by trading standards officers were undertaken to other premises types (2% compared to 1% of all visits).
- Significantly fewer visits by trading standards officers were undertaken to off-licences (17% compared to 29% of all visits).
- Significantly fewer visits by trading standards officers were undertaken to pubs/clubs (1% compared to 3% of all visits).

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

Type of premises	Visits undertaken (%)
Small retailer	51
Off-licence	17
Independent newsagent	14
Large retailer	5
Petrol station kiosk	3
National newsagent	3
Market/car boot sale	1
Pub/club	1
Private homes	<0.5
Other	2
<i>Base number of complaints and enquiries</i>	<i>3,143</i>
<i>Number of councils providing data</i>	<i>88</i>



Conducting test purchase operations with volunteer young persons

58% of all councils carried out test purchase operations at retail premises with volunteer young persons.

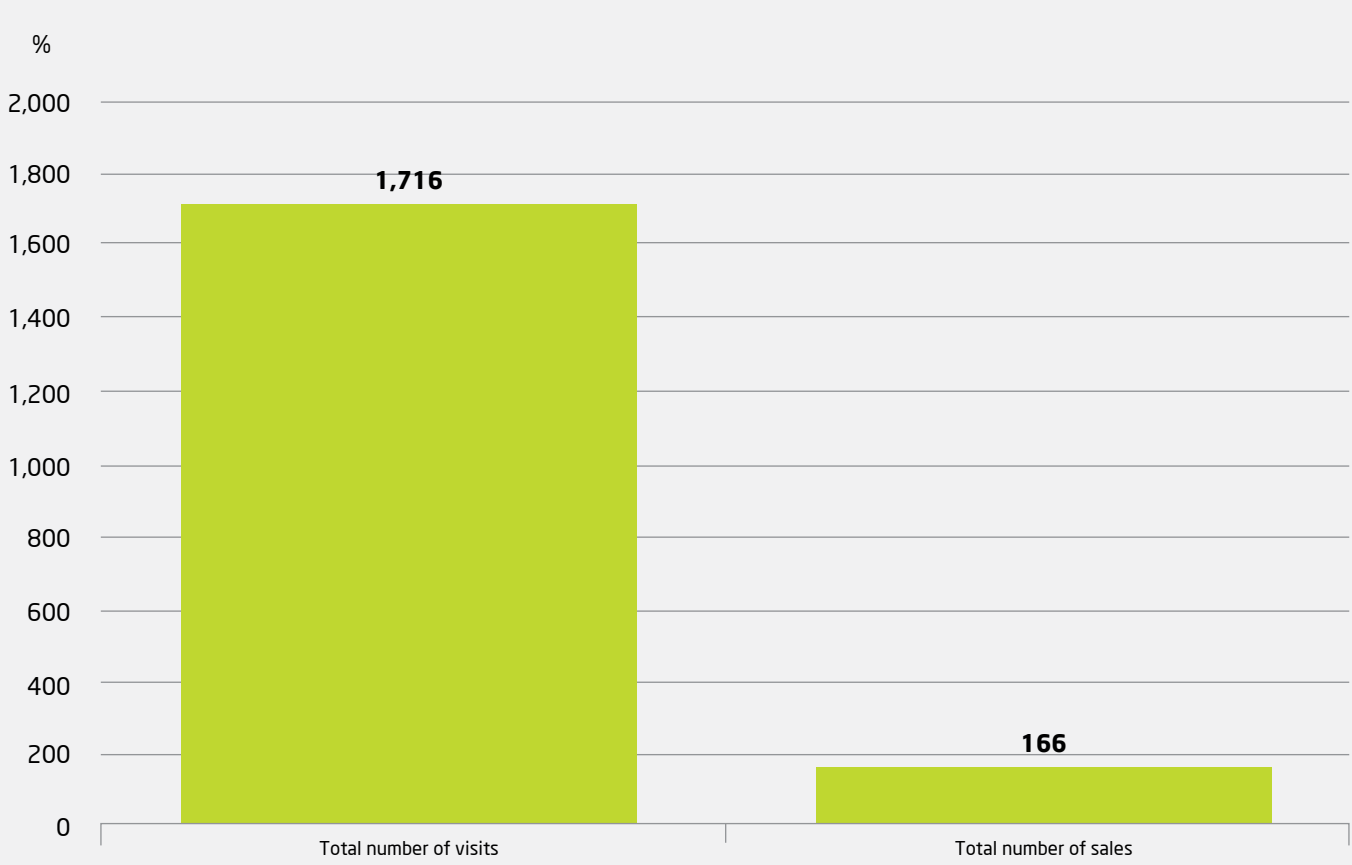
Of those conducting work around underage sales, 24% of councils engaged in underage sales activities but did not carry out work with volunteer young persons in test purchase operations in premises. For these (26 councils) the following reasons were stated:

- Lack of intelligence (stated spontaneously by 15 councils).
- Lack of staff resource overall (eight councils).
- Staff resource being directed at other underage sales activities (six councils).
- Financial resource being directed at other underage sales activities (six councils).

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 chart below provides a summary of the number of test purchase operations and illegal sales made at retail premises.

Figure 3: 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 that stated the number of visits conducted and the total number of sales (83)

OUTCOME OF VISITS TO RETAIL PREMISES WITH VOLUNTEER YOUNG PERSONS

Visits conducted

All 83 councils that conducted visits to premises with volunteer young persons supplied the number of premises visited; this was a total of 1,716.

If this figure is used as an indication of the likely picture in non-responding councils, this would mean an estimated total of around 2,200 premises across England were visited by volunteer young persons in the conduct of test purchase operations in 2017/18.

Number of visits to premises resulting in illegal sales

All 83 councils were also able to report the number of visits with volunteer young people where sales had occurred. Of those able to provide detail, 61% reported that cigarettes or tobacco products were sold in at least one premises. Where cigarettes were sold to underage persons in 2017/18, they were sold at a median of two premises and a total of 166 premises.

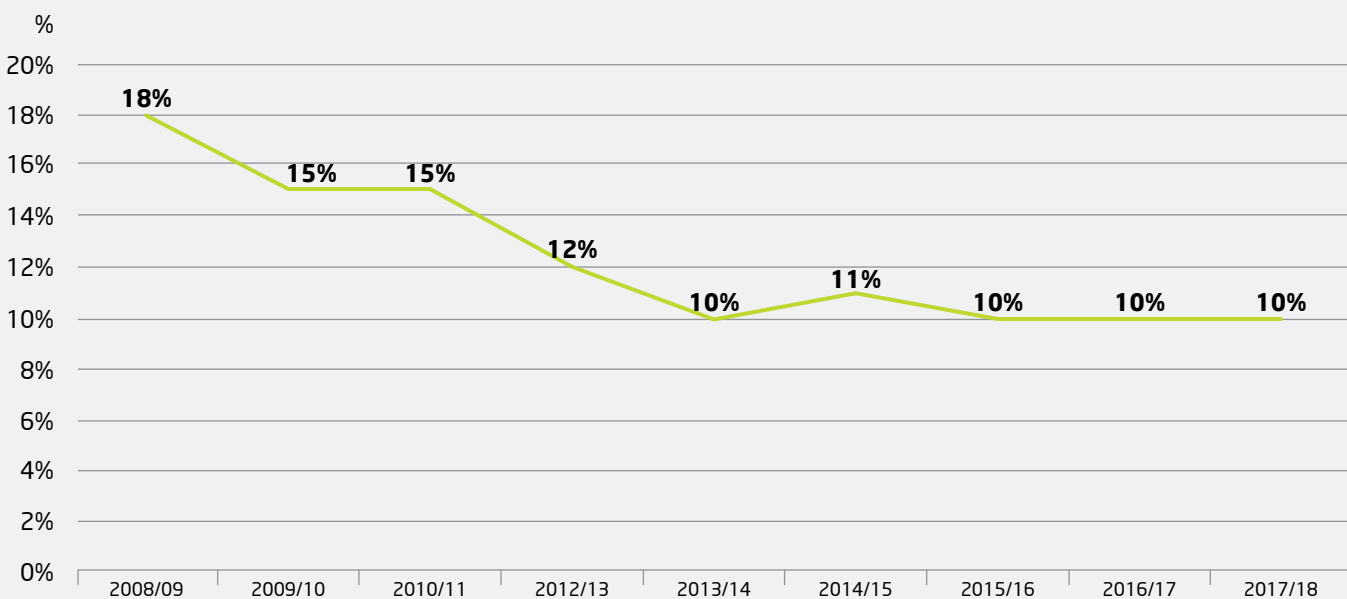
If this figure is used as an indication of the likely picture in non-responding councils, this would mean an estimated total of around 200 premises across England were detected making illegal sales of tobacco products to underage young persons in 2017/18.

Proportion of visits to premises resulting in illegal sales

For the 83 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 of 10% in 2017/18.

Figure 4: Percentage of visits to premises by volunteer young persons resulting in illegal sales between 2008/09 and 2017/18



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), total number of visits made in 2017/18 (1,716)



Types of premises⁹

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; 82 councils out of 83 were able to provide this detail.

For these councils, in total 1,623 visits were undertaken by volunteer young persons, with the largest proportion of visits being conducted at small retailers (42%) and no visits undertaken at private homes.

Compared to 2016/17:

- Significantly more visits were undertaken to large retailers (7% compared to 5% of all visits).
- Significantly more visits were undertaken to other premises types (2% compared to 1% of all visits).
- Significantly fewer visits were undertaken to small retailers (41% compared to 46% of all visits).
- Significantly fewer visits were undertaken to private homes (no visits compared to <0.5% of all visits).

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

Type of premises	Visits undertaken (%)
Small retailer	41
Off-licence	25
Independent newsagent	17
Large retailer	7
National newsagent	4
Petrol station kiosk	3
Pub/club	<0.5
Market/car boot sale	<0.5
Private home	0
Other	2
<i>Base number of visits</i>	<i>1,623</i>
<i>Number of councils providing data</i>	<i>82</i>

Where more than 20 visits were undertaken, independent newsagents had the greatest proportion of sales (18%), whilst 'other' types of premises had the smallest proportion of sales (4%).

⁹ For guidance on definitions of premises types please see annex 1

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	1	100
Pub/club	1	2	50
Independent newsagent	49	277	18
National newsagent	8	65	12
Petrol station kiosk	7	56	13
Small retailer	59	658	9
Off-licence	30	407	7
Large retailer	6	119	5
Private home	0	0	N/A
Other	1	28	4
<i>Number of councils providing data</i>		82	

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 undertook activity in relation to underage sales were asked about actions taken as a result of underage sales activity.

Of councils that undertook activity in relation to underage sales, 50% stated that action was taken as a result of a breach of the Children and Young Persons Act 1933 (as amended) between 1 April 2017 and 31 March 2018. This equates to 38% of all councils.

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

Respondents that took action were asked to provide detail on the types of action that were taken. Of those that took action (55 councils) verbal or written warnings were the most common type of action to be taken (78%).

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	78	2	55
Simple cautions issued	27	2	55

Prosecutions relating to the 1933 Act (as amended)

Of the councils that undertook action (55 councils), 22% took formal legal action. The median number of prosecutions was one per council, with 20 prosecutions in total.



All 12 councils that took action were able to provide detail on the outcomes of prosecutions:

- Eight councils stated that one or more of their prosecution cases had ended in a conviction of an individual, with 11 convictions of individuals and a median average of one conviction per council.
- Two councils stated that one or more of their prosecution cases had ended in a conviction against a business (a total of two convictions, with a median average of one per council).
- One council convicted one individual as a repeat offender. No councils convicted any businesses as repeat offenders.
- Two councils reported that no prosecutions resulted in a conviction.

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

Seven councils, out of the 10 that reported a prosecution with an outcome, stated that magistrates had imposed a fine as a result of one or more of these convictions. 10 fines were imposed in total; three of the fines imposed were between £501 - £1,000. Table 8 depicts the findings.

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

Level of fine	Number of fines
Up to £100	2
£101 - £200	1
£201 - £300	1
£301 - £400	0
£401 - £500	1
£501 - £1,000	3
£1,001 - £1,500	1
£1,501 - £2,000	0
£2,001 - £2,500	1
Total number of fines	10

Base: all authorities that knew the level of fines for some of their convictions (7)

When asked how effective they believed the sanctions to be in altering future business practice, three councils stated that they thought the fines imposed were very or fairly effective, two thought they were not very effective or not at all effective, two stated they did not know.

Restricted sales and premises orders

No restricted sales or premises orders were applied for.

Alternative sanctions

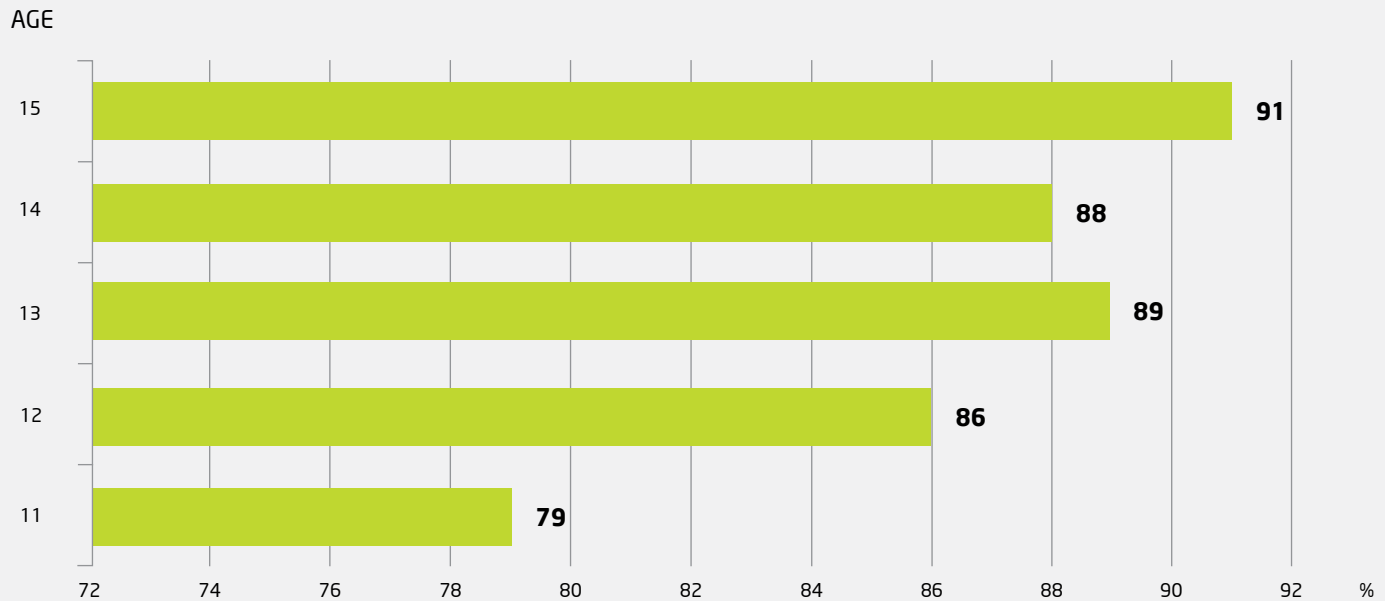
13% of councils imposed 'alternative sanctions' – for example, mandatory attendance on a training course – with a median average of two per council and a total of 13.

6 Underage sales activity: nicotine inhaling products (NIPs)

The Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations 2015¹⁰ prohibit the sale of nicotine inhaling products (NIPs) to young people under the age of 18. These were implemented in October 2015.

Young people's awareness of these products is high, with 91% of 15-year-olds reporting such¹¹.

Figure 5: Total percentage of young people aware of e-cigarettes



Whilst only 2% of young people report themselves as being regular users of e-cigarettes, the percentage of young people that have ever tried these products has risen from 22% in 2014 to 25% in 2016¹².

37% of young people reported buying their products from shops, 23% from the internet and 12% from street markets¹³. Access to these products is age-restricted and thus this remains an area of concern for trading standards.

10 The Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations 2015 available at: <https://www.legislation.gov.uk/uksi/2015/895/contents/made> [accessed online 22 June 2018]

11 NHS Op Cit

12 NHS Op Cit

13 NHS Op Cit



FINDINGS

71% of all councils conducted activities in relation to underage sales for NIPs.

Complaints and enquiries received

99 out of the 102 councils conducting activities in relation to underage sales for NIPs could provide detail on the complaints and enquiries received about them.

52% 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 456 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 475 complaints and enquiries about underage sales from retail premises were received in England in 2017/18.

Complaints and enquiries received by premises type

Councils were asked to provide a breakdown of the complaints and enquiries received by premises type¹⁴.

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. All 74 councils that had received complaints and enquiries were able to provide this detail.

Of the 456 complaints and enquiries received by these councils, the largest proportion were received about specialist e-cigarette suppliers (41%), followed by convenience stores/grocers (16%); no complaints or enquiries were received about national pharmacy chains or independent pharmacies.

Compared to 2016/17:

- Significantly more complaints and enquiries were received about national newsagents (5% compared to 1% of all complaints and enquiries).
- Significantly fewer complaints and enquiries were received about discount stores (4% compared to 12% of all complaints and enquiries).

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

Type of premises	Complaints and enquiries received (%)
Specialist e-cigarette supplier	41
Convenience store/grocer	16
Independent newsagent	11
Online retailer	7
Market stall/car boot sale	6
National newsagent	5
Discount shop	4
Mobile phone shop	3
Large retailer	2
Petrol station kiosk	<0.5
Pharmacy national chain	0
Pharmacy independent	0
Other	5
<i>Base number of complaints and enquiries</i>	<i>456</i>
<i>Number of councils providing data</i>	<i>98</i>

¹⁴ For guidance on definitions of premises types please see annex 2

Visits by trading standards officers to premises

99 out of the 102 councils conducting activities in relation to underage sales for NIPs could provide detail on the number of visits by trading standards officers to premises.

55% of all councils (78 councils) undertook visits to premises by trading standards officers in relation to underage sales for NIPs; in total 872 visits were undertaken by councils in 2017/18.

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 visits in relation to underage sales from retail premises were made by trading standards officers in England in 2017/18.

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; 77 out of the 78 councils that undertook visits were able to provide this detail.

In total 867 visits were undertaken by these councils, with the largest proportion of visits being undertaken at a specialist e-cigarette provider (36%), followed by convenience store/grocer (21%); The smallest proportion of visits were undertaken to national pharmacies, petrol station kiosks, online retailers and independent pharmacies (1% of all visits for each premises type).

Compared to 2016/17:

- Significantly more visits were undertaken to specialist e-cigarette suppliers (36% compared to 30% of all visits).
- Significantly more visits were undertaken at independent newsagents (10% compared to 4% of all visits).
- Significantly more visits were undertaken at mobile phone shops (3% compared to 1% of all visits).
- Significantly more visits were undertaken to other types of premises (10% compared to 3% of all visits).
- Significantly fewer visits were undertaken to convenience store/grocer (21% compared to 39% of all visits).

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

Type of premises	Visits undertaken (%)
Specialist e-cigarette supplier	36
Convenience store/grocer	21
Independent newsagent	10
Large retailer	5
Discount shop	5
Market stall/car boot sale	4
Mobile phone shop	3
National newsagent	2
Pharmacy national chain	1
Petrol station kiosk	1
Online retailer	1
Pharmacy independent	1
Other	10
<i>Base number of complaints and enquiries</i>	<i>867</i>
<i>Number of councils providing data</i>	<i>77</i>



Conducting test purchase operations with volunteer young persons

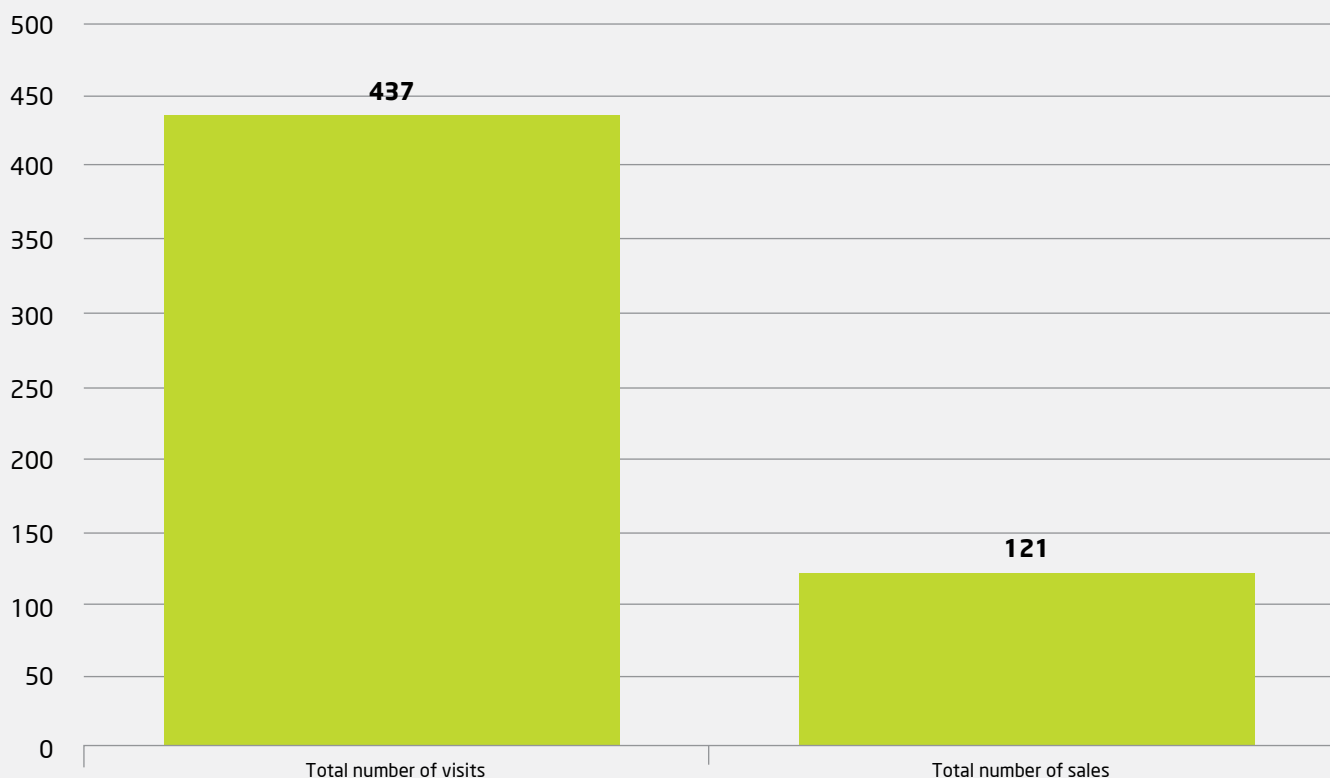
32% of all councils carried out test purchase operations with volunteer young persons for NIPs. This was significantly fewer than the 52% of councils that carried out test purchase operations with young persons for NIPs in 2016/17.

Of those conducting work around underage sales of NIPs, 55% of councils engaged in underage sales activities, but did not carry out work with volunteer young persons in test purchase operations in premises. For these (56 councils), the most frequently cited reason was lack of intelligence (stated spontaneously by 26 councils), followed by staff resource being directed at other underage sales activities (14 councils) and lack of staff resource overall (11 councils).

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 6: 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 that stated the number of visits conducted and the total number of sales (46)

OUTCOME OF VISITS TO RETAIL PREMISES WITH VOLUNTEER YOUNG PERSONS

Visits conducted

All 46 councils that conducted visits to premises with volunteer young persons supplied the number of premises visited; this was a total of 437.

If this figure is used as an indication of the likely picture in non-responding councils, this would mean an estimated total of around 700 premises across England were visited by volunteer young persons in the conduct of test purchase operations in 2017/18.

Number of visits to premises resulting in illegal sales

All 46 councils were able to report the number of visits with volunteer young people where sales had occurred. 70% reported that NIPs were sold in at least one premises.

Where NIPs were sold to underage persons in 2017/18, they were sold at a median of two premises and a total of 121 premises.

If this figure is used as an indication of the likely picture in non-responding councils, this would mean an estimated total of around 200 premises across England were detected selling NIPs to underage persons in 2017/18.

Proportion of visits to premises resulting in illegal sales

All 46 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 28% of test purchases at premises.

Types of premises

Councils were asked to provide a breakdown of the types of premises¹⁵ 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; 45 out of 46 councils were able to provide this detail.

Of the 432 visits that were undertaken by volunteer young persons the largest proportion of visits were conducted at specialist e-cigarette providers (30%). No visits were undertaken at online retailers.

Compared to 2016/17:

- Significantly more visits were undertaken to other types of premises (17% compared to 7% of all visits).
- Significantly fewer visits were undertaken to national newsagents (3% compared to 6% of all visits).
- Significantly fewer visits were undertaken to online retailers (no visits compared to 1% of all visits).

¹⁵ For guidance on definitions of premises types please see annex 2

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

Type of premises	Visits undertaken (%)
Specialist e-cigarette supplier	30
Convenience store/grocer	14
Large retailer	9
Independent newsagent	9
Discount shop	9
National newsagent	3
Pharmacy national chain	3
Market stall/car boot sale	3
Petrol station kiosk	2
Mobile phone shop	1
Pharmacy independent	1
Online retailer	0
Other	17
<i>Base number of visits</i>	432
<i>Number of councils providing data</i>	45

Where more than 20 visits were undertaken, discount shops had the greatest proportion of sales (42%) whilst convenience stores/grocers had the smallest proportion (10%).

National pharmacy chains had the highest sales rate at 50%, although only 12 visits were undertaken.

Compared to 2016/17:

- Significantly fewer sales occurred at convenience stores/grocers (10% compared to 32% of sales at this premises type).

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 (%)
Pharmacy national chain	6	12	50
Market stall/car boot sale	6	13	46
Discount shop	16	38	42
Mobile phone shop	2	5	40
Specialist e-cigarette supplier	41	128	32
Independent newsagent	9	38	24
Large retailer	8	39	21
National newsagent	3	15	20
Convenience store/grocer	6	61	10
Petrol station kiosk	0	7	0
Pharmacy independent	0	4	0
Online retailer	0	0	0
Other	24	72	33
<i>Number of councils providing data</i>		45	

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

Breaches of the Children and Families Act 2014

All councils that undertook 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 undertook activity in relation to underage sales, 40% stated that action was taken as a result of a breach of the Children and Families Act 2014 between 1 April 2017 and 31 March 2018. This equates to 29% of all councils.

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

Respondents that took action were asked to provide detail on the types of action that were taken. Of those that took action, and could provide detail (all 40 councils), verbal or written warnings were the most common type of action to be taken (80%).

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	80	1	40
Simple cautions issued	27	1	40

Prosecutions relating to the Children and Families Act 2014

Of the councils that undertook action (40 councils), 13% took formal legal action. The median number of prosecutions was one per council, with nine prosecutions in total.

All seven councils that took action were able to provide detail on the outcomes of prosecutions:

- Three councils stated that one or more of their prosecution cases ended in a conviction against a business (a total of four convictions, with a median average of one per council). Two councils convicted three businesses as repeat offenders.
- Three councils stated that one or more of their prosecution cases ended in a conviction of an individual, with five convictions of individuals and a median average of two convictions per council. Two councils convicted three individuals as repeat offenders.
- Three councils stated that their prosecution cases did not end in a conviction.

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

Four councils, out of the seven that reported a prosecution, stated that magistrates imposed a fine as a result of one or more of these convictions. All five fines were awarded at different levels. Table 14 depicts the findings.

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

Level of fine	Number of fines
Up to £100	0
£101 - £200	1
£201 - £300	1
£301 - £400	0
£401 - £500	1
£501 - £1,000	0
£1,001 - £1,500	1
£1,501 - £2,000	1
£2,001 - £2,500	0
Total number of fines	5

Base: all authorities that knew the level of fines for some of their convictions (4)

When asked how effective they believed the sanctions to be in altering future business practice, two out of the four councils, where fines were imposed, believed these penalties were very or fairly effective for preventing repeat offending in relation to breaches of the Children and Families Act 2014. Two councils did not know.

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 one per council and two in total.

8 Illicit tobacco products

HMRC report that in 2016/17 the cigarette tax gap was estimated to be £1.8 billion and the hand-rolling tobacco tax gap was estimated to be £0.7 billion. The overall tobacco tax gap is driven by the illicit markets in cigarettes and hand-rolling tobacco (total estimated to be £2.5 billion). Of this, £1.9 billion was lost in tobacco duties and a further £0.6 billion in VAT¹⁶.

The Tobacco Control Plan for England acknowledges that illicit trade is indisputably linked to organised crime on a global level, whilst at local level the supply of illicit product seriously undermines public health policy. Illicit tobacco is a less expensive option for individuals who might otherwise be persuaded to quit, where the price of a packet of cigarettes is the motivating force. Illicit tobacco damages legitimate business and makes tobacco more accessible to children.

Trading standards services 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 & 2'¹⁷ – have demonstrated the value of working locally to disrupt illegal supply. More recently, Operation Cameron (a pilot project) was developed by CTSI and HMRC to assist in the sharing of illicit tobacco seizure information between trading standards and HMRC.

¹⁶ *Measuring Tax Gaps 2017 edition* published by HMRC; available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/654490/HMRC-tobacco-tax-gap-estimates-2017.pdf [accessed online 20 June 2018]

¹⁷ Operation Henry 1 & 2 (2014, 2016) available at: <https://www.tradingstandards.uk/news-policy/tobacco-control/operation-henry> [accessed online 20 June 2018]

FINDINGS

92% of all councils conducted activities in relation to illicit tobacco products¹⁸.

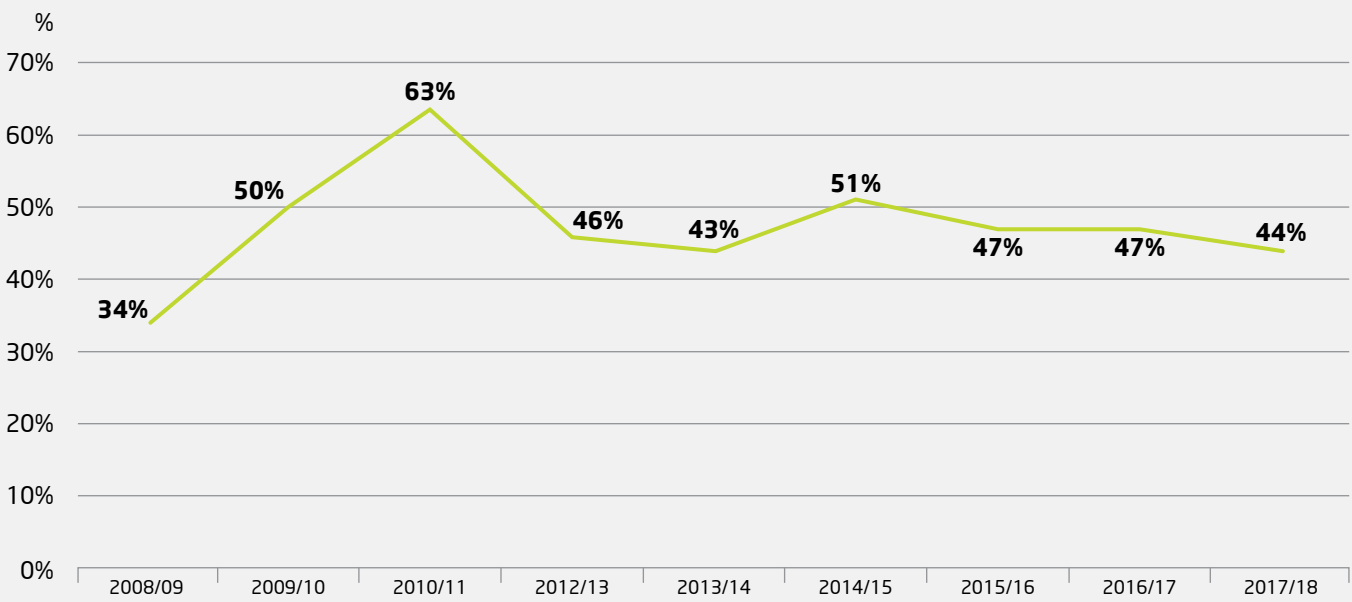
Regional strategies for illicit tobacco

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

44% of all councils undertook joint operations with HMRC as part of their activity in relation to illicit tobacco products.

Figure 7: 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), 2017/18 (143)

¹⁸ 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.



Complaints and enquiries

126 out of 131 councils that undertook activities in relation to illicit tobacco were able to provide detail on the number of complaints and enquiries received. 86% of all councils had dealt with complaints and enquiries in relation to the supply of illicit tobacco products.

In total 4,844 complaints and enquiries were received, with a median average of 26 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 5,200 complaints and enquiries about illicit tobacco products were received in England in 2017/18.

Among councils reporting levels of activity in 2016/17 and 2017/18, matched sample analysis indicated there was a statistically significant increase in the mean average number of complaints and enquiries from 31 in 2016/17 to 41 in 2017/18¹⁹.

Complaints and enquiries received by premises type

Councils were asked to provide a breakdown of the complaints and enquiries received by premises type²⁰.

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; 120 out of 123 councils that undertook visits were able to provide this detail.

In total 4,739 complaints and enquiries were received by these councils, with the largest proportion of complaints and enquiries being received about small retailers (47%), followed by private homes (12%); the smallest proportion were received about petrol station kiosks and national newsagents (<0.5% for each).

Compared to 2016/17:

- Significantly more complaints and enquiries were received about independent newsagents (11% compared to 6% of all complaints and enquiries).
- Significantly more complaints and enquiries were received about off-licences (10% compared to 7% of all complaints and enquiries).
- Significantly fewer complaints and enquiries were received about private homes (12% compared to 16% of all complaints and enquiries).
- Significantly fewer complaints and enquiries were received about pubs and clubs (2% compared to 3% of all complaints and enquiries).

¹⁹ A paired samples t test revealed a statistically reliable difference between the mean average number of complaints and enquiries in 2016/17 (mean = 31, standard deviation = 37.5) and 2017/18 (mean = 41, standard deviation = 56.7); $t(31) = 2.18$, $p < 0.5$

²⁰ 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

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

Type of premises	Complaints and enquiries received (%)
Small retailer	47
Private home	12
Independent newsagent	11
Off-licence	10
Pub/club	2
Market/car boot sale	1
Large retailer	1
Petrol station kiosk	<0.5
National newsagent	<0.5
Other	17
<i>Base number of complaints and enquiries</i>	4,739
<i>Number of councils providing data</i>	120

Visits by trading standards officers

124 out of 131 councils were able to provide detail on the number of visits undertaken by trading standards officers. 85% of these councils had visited premises in relation to illicit tobacco products; a total of 4,633 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 5,200 premises were visited across England in 2017/18 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; 122 out of 124 councils were able to provide this detail.

In total 4,610 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 (58%), followed by off-licences (21%); the smallest proportion were undertaken at national newsagents (<0.5% for each).

Compared to 2016/17:

- Significantly more visits were undertaken by trading standards officers to small retailers (58% compared to 53% of all visits undertaken).
- Significantly more visits were undertaken by trading standards officers to independent newsagents (10% compared to 7% of all visits undertaken).
- Significantly fewer visits were undertaken by trading standards officers to off-licences (21% compared to 24% of all visits undertaken).
- Significantly fewer visits were undertaken by trading standards officers to pubs/clubs (2% compared to 4% of all visits undertaken).
- Significantly fewer visits were undertaken by trading standards officers to large retailers (1% compared to 2% of all visits undertaken).
- Significantly fewer visits were undertaken by trading standards officers to other premises types (3% compared to 5% of all visits undertaken).

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

Type of premises	Visits undertaken (%)
Small retailer	58
Off-licence	21
Independent newsagent	10
Private home	3
Pub/club	2
Large retailer	1
Petrol station kiosk	1
Market/car boot sale	1
National newsagent	<0.5
Other	3
<i>Base number of visits</i>	4,610
<i>Number of councils providing data</i>	122

Seizure of illicit tobacco products

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

100 out of the 108 councils that seized illicit tobacco products were able to provide detail across each illicit tobacco product on the amount seized; the three most frequently seized illicit tobacco products were:

- Cigarette brands that are not for legitimate sale in the UK; these were seized by 80% of councils, with a median average of 9,609 sticks per council.
- Counterfeit cigarettes; these were seized by 69% of councils, with a median average of 9,320 sticks per council.
- Genuine non-UK-duty-paid cigarettes; these were seized by 67% of councils, with a median average of 8,468 sticks per council.

Seized by the smallest proportion of councils (by 4%) was raw tobacco.

Table 17: Please provide details below on types of product and total amount of products that were seized within your local authority area between 1 April 2017 and 31 March 2018

Type of product	Percentage seizing products (%)	Median number per council (in councils seizing only)	Base
Cigarette brands not for legitimate retail in the UK	80	9,609 sticks	100
Counterfeit cigarettes	69	9,320 sticks	
Genuine non-UK-duty-paid cigarettes	67	8,468 sticks	
Counterfeit hand-rolling tobacco	63	15kg	
Genuine non-UK-duty-paid hand-rolling tobacco	61	12kg	
Smokeless tobacco	19	6kg	
Shisha	13	4kg	
Counterfeit tobacco packaging/pouches	7	658 packages/pouches	
Raw tobacco	4	10kg	

Proportion of illicit cigarettes seized in SPoT packaging

79 of the 92 councils²¹ that stated that they had seized either counterfeit cigarettes or genuine non-UK-duty-paid cigarettes provided detail on the proportion of illicit cigarettes seized that were in SPoT packaging. 27 councils reported such seizures; for those that reported such seizures the median proportion was 5%.

The brands that were most frequently found in SPoT packaging were Mayfair (12 councils), Marlborough (11 councils) and Lambert and Butler (nine councils).

Proportion of Illicit hand-rolling tobacco seized in SPoT packaging

83 of the 97 councils²² that stated that they had seized such products provided detail on the proportion of illicit hand-rolling tobacco seized that was in SPoT packaging. Nine councils reported such seizures; for those that reported such seizures the median proportion was 5%.

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

Cigarette brands that are not for legitimate sale in the UK²³

Of the 94 councils²⁴ that stated that they had seized such products, the three brands that were most frequently reported being seized were:

- L&M (73% of councils).
- Fest/Pect (62% of councils).
- Minsk (60% of councils).

23% of councils stated other brands and 75 additional brands were mentioned; the most frequently mentioned brand was Queens (by 10 councils).

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

Compared to 2016/17:

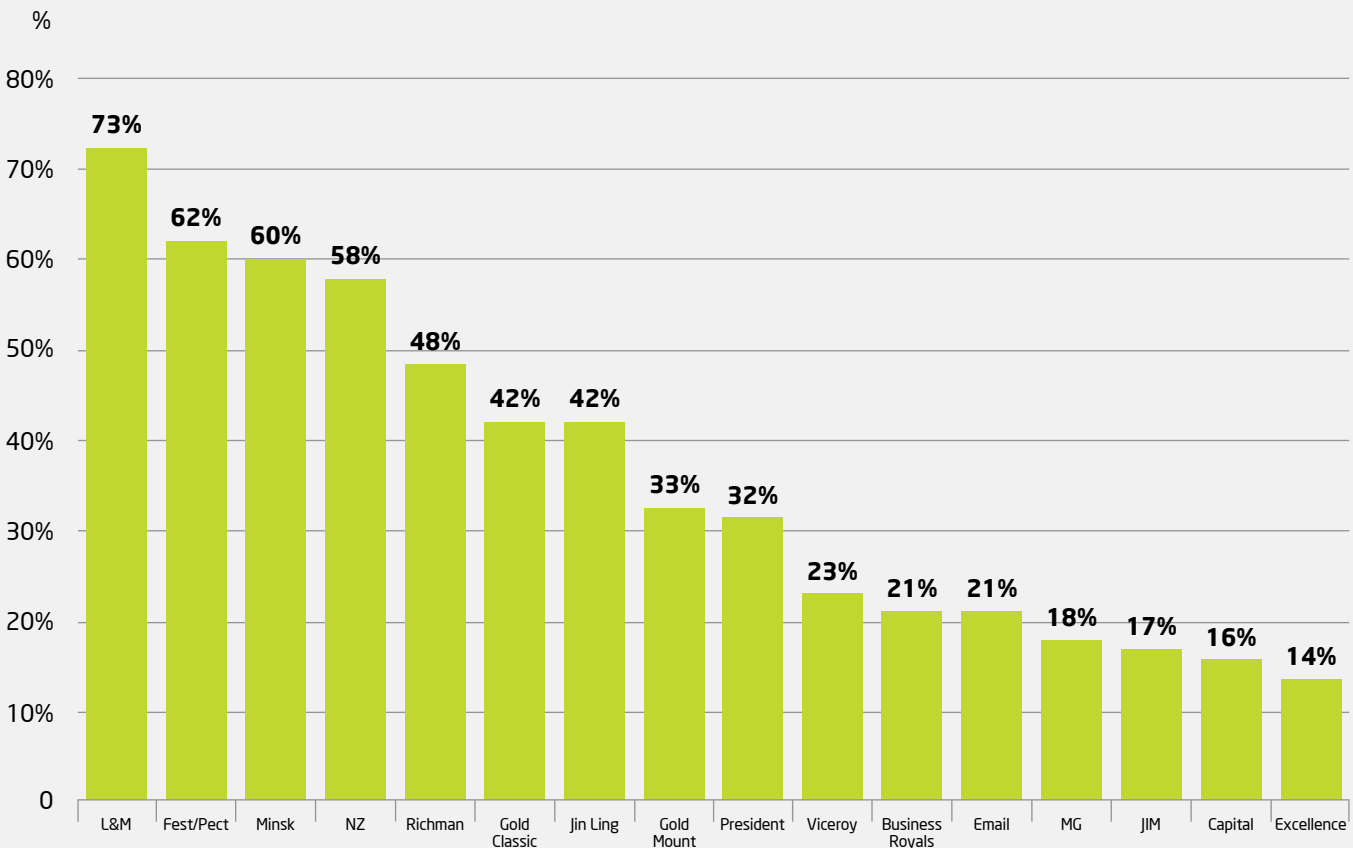
- Significantly fewer councils reported seizing other types of brands (23% compared to 39% of councils in 2016/17).
- Significantly fewer councils reported seizing Email (21% compared to 36% of councils in 2016/17).

²¹ This is all councils stating they seized, not just those that could provide data on the seizure of all products

²² This is all councils stating they seized, not just those that could provide data on the seizure of all products

²³ Councils were provided with an extended list of cigarettes brands not for legitimate sale in the UK in 2017/18, which should be considered when 2016/17 and 2017/18 are compared

²⁴ This is all councils stating they seized, not just those that could provide data on the seizure of all products


Figure 8: Cigarette brands not for legitimate sale in the UK seized by 10 or more councils


Base: all councils that reported seizing cigarette brands that are not for legitimate sale in the UK (95)

Any illicit cigarettes seizures: average intended sales price

All 101 respondents that reported seizures of any illicit cigarettes (cigarettes not for legitimate sale in the UK, counterfeit cigarettes or genuine non-UK-duty-paid cigarettes) were asked to select the average intended sale price of the cigarettes seized.

29% of councils reported that the average intended sales price was £3.01 to £4, whilst 28% of councils reported that the average intended sales price was £4.01 to £5.

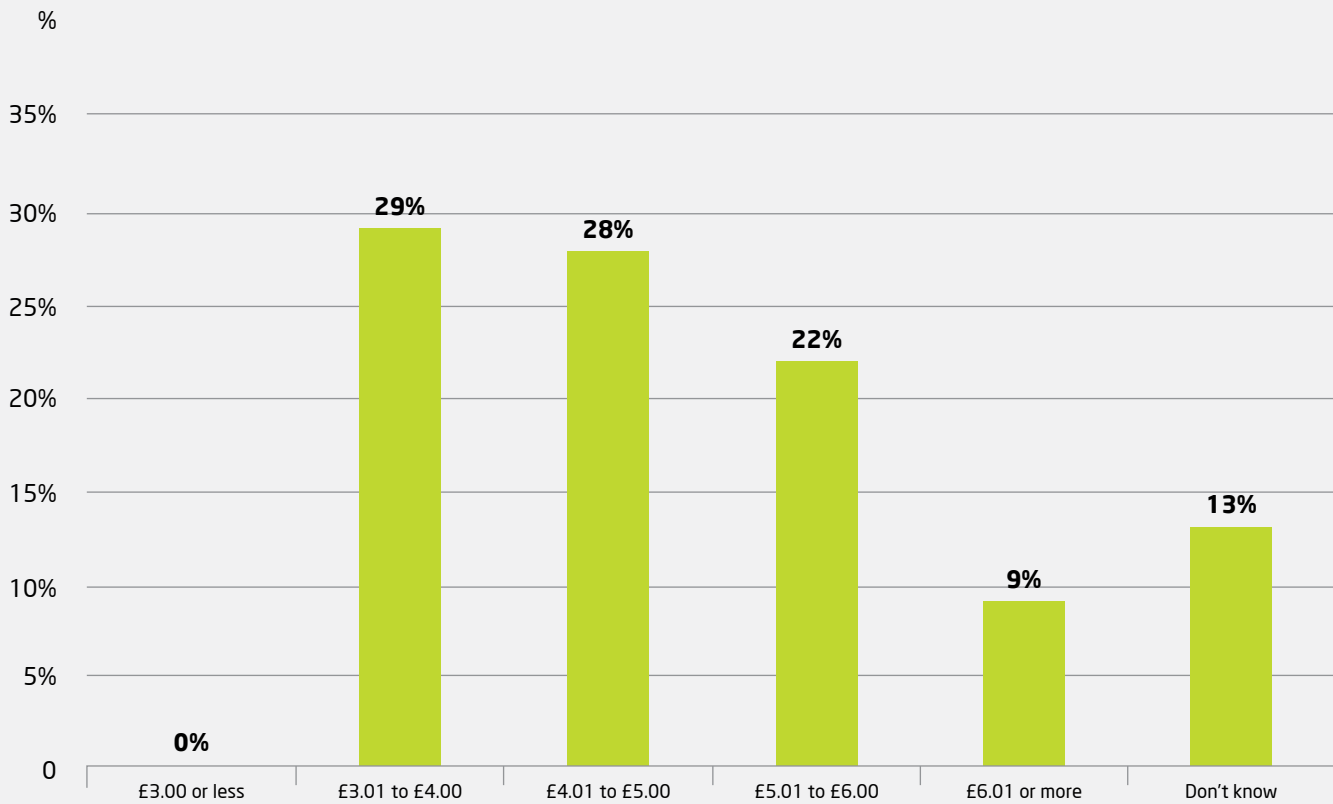
No councils reported that the average intended sales price of cigarettes was £3 or less.

13% of councils did not know the average intended sales price of the seized illicit cigarettes.

Compared to 2016/17:

- Significantly more councils reported an intended sales price for illicit cigarettes of £5.01 to £6 (22% compared to 6% of councils in 2016/17).
- Significantly more councils reported an intended sales price for illicit cigarettes of £6.01 or more (9% compared to no councils in 2016/17).

Figure 9: On average, what was the intended sales price for illicit cigarettes seized between 1 April 2017 and 31 March 2018?



Base: all councils that reported seizing cigarette brands not for legitimate sale in the UK, counterfeit cigarettes or genuine non-UK-duty-paid cigarettes (101)

Illicit cigarette seizures: countries of origin

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

The two countries most frequently mentioned were Poland (45 councils) and Russia (14 councils).

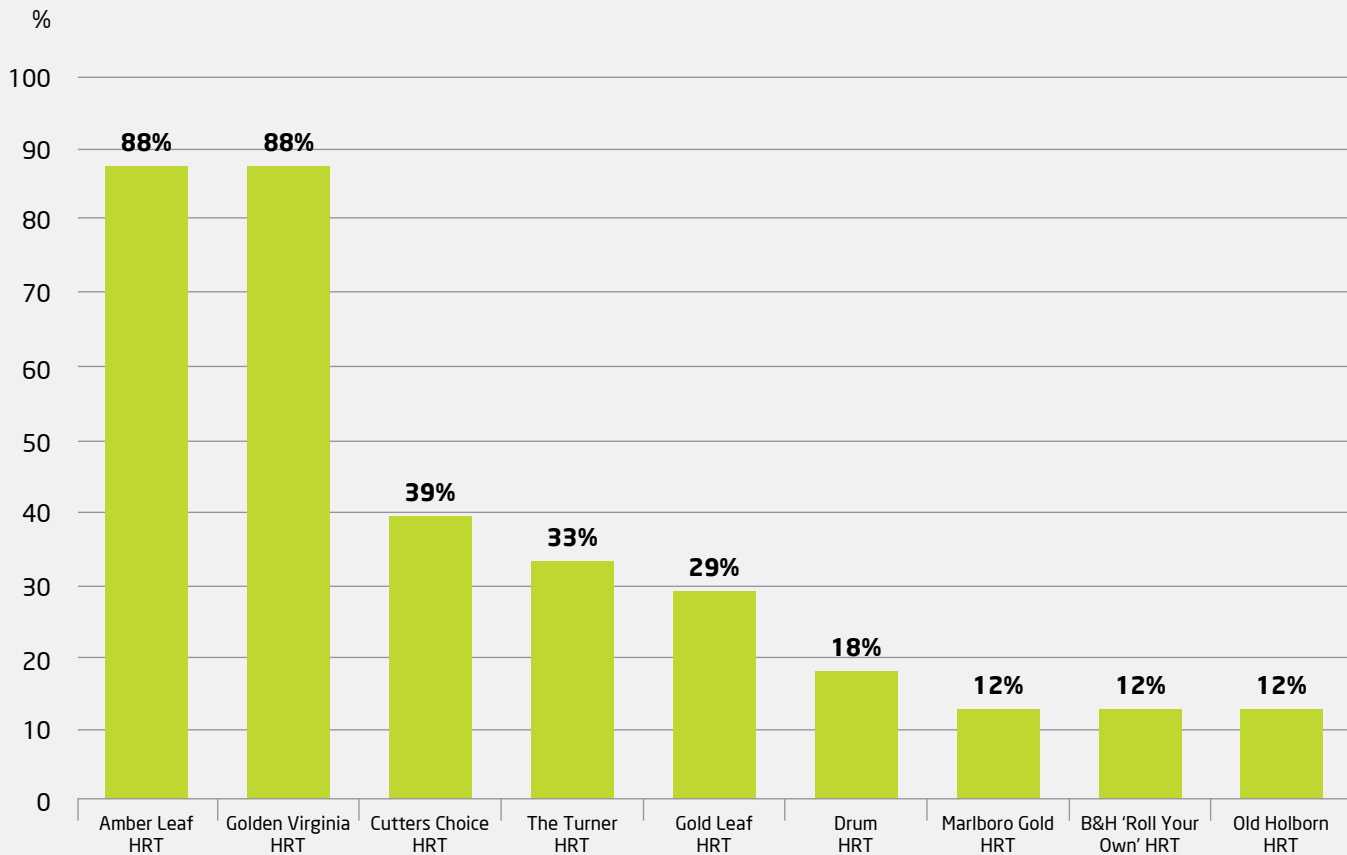
Illicit hand-rolling tobacco brands

Of the 97 councils²⁵ that stated that they had seized illicit hand-rolling tobacco, the three brands that were most frequently reported being seized were:

- Amber Leaf (88% of councils).
- Golden Virginia (88% of councils).
- Cutters Choice (39% of councils).

Other types of illicit hand-rolling tobacco were mentioned by 9% of councils.

²⁵ This is all councils stating they seized, not just those that could provide data on the seizure of all products


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


Base: all councils that reported seizing counterfeit hand-rolling tobacco and genuine non-UK-duty-paid hand-rolling tobacco (97)

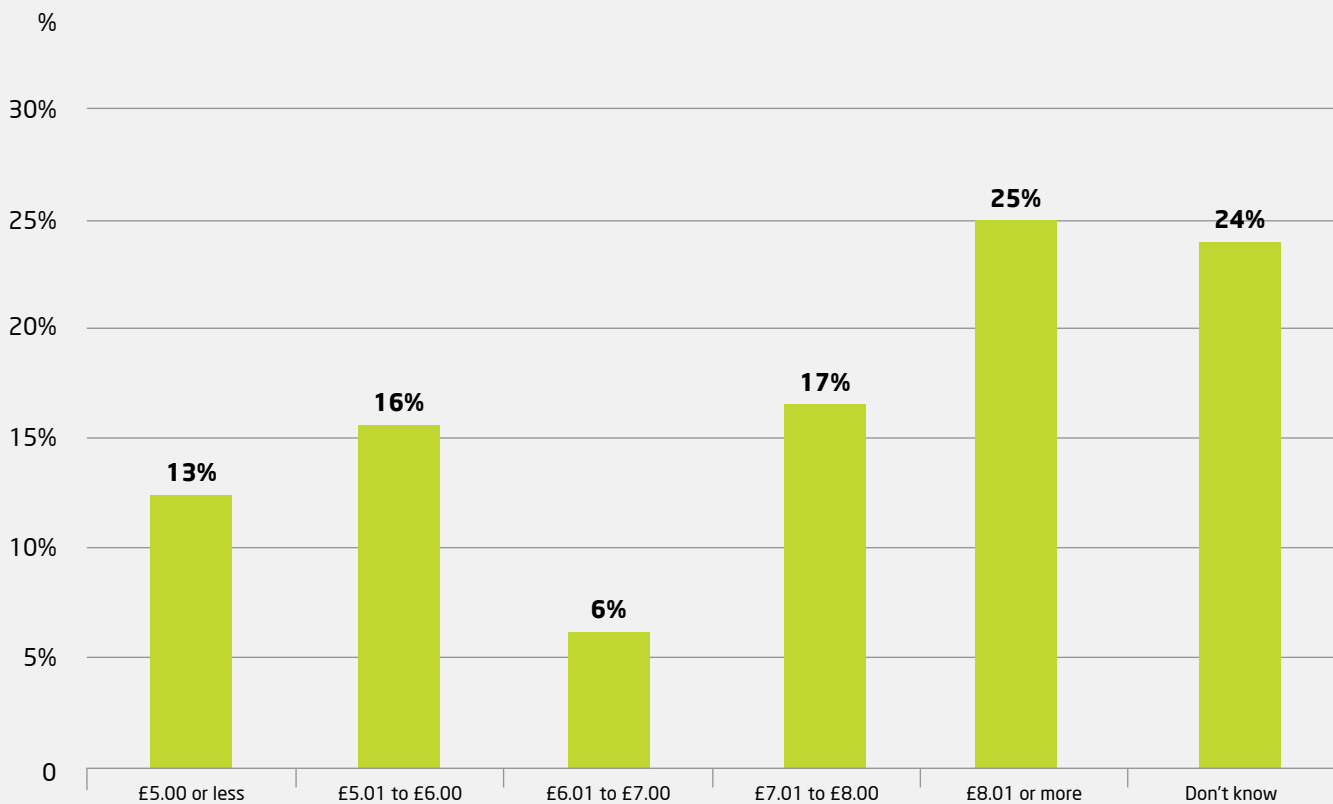
Illicit hand-rolling tobacco seizures: average intended sales price

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.

25% of councils selected £8.01 or more, followed by 24% of councils that did not know the average intended sales price of the seized hand-rolling tobacco.

The smallest proportion of councils (6%) reported that the average intended sales price was £6.01 to £7.

Figure 11: On average, what was the intended sales price for illicit hand-rolling tobacco seized between 1 April 2017 and 31 March 2018?



Base: all councils that reported seizing counterfeit hand-rolling tobacco, genuine non-UK-duty-paid hand-rolling tobacco (97)

Illicit hand-rolling tobacco seizures: countries of origin

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

The two countries most frequently mentioned were Belgium (24 councils) and Poland (23 councils).

Actions taken in relation to illicit tobacco products

All councils that undertook activity in relation to illicit tobacco products (131 councils) were asked to provide detail about what, if any, types of action were undertaken.

125 councils could provide detail on actions taken; written or verbal warnings were the most common type of action to be taken by councils (62%), followed by 28% issuing simple cautions.

**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	62	4	125
Simple cautions issued	28	2	125

Prosecutions relating to illicit tobacco products

Of the councils that had provided detail on the number of actions taken (127), 56% took formal legal action. The median number of prosecutions was two per council, with 334 prosecutions in total. 69 out of the 74 councils could provide detail on the outcomes of their prosecutions.

18 out of 69 councils stated that one of their prosecutions ended in a business conviction by 31 March 2018 (a total of 46 convictions, with a median average of one conviction per council). Seven councils reported that they convicted repeat offenders, with a total of 13 repeat offenders being convicted, with a median of two per council.

48 out of 69 councils stated that one of their prosecutions ended in a conviction of an individual by 31 March 2018 (a total of 178 convictions, with a median average of two convictions per council). 15 councils reported that they convicted repeat offenders, with a total of 29 repeat offenders being convicted and a median average of one individual repeat offender being convicted per council.

18 councils reported that no prosecutions had ended in a business conviction or the conviction of an individual by 31 March 2018.

Fines as a result of legal proceedings

38 of the 51 councils that stated that their prosecutions had ended in either a business conviction or a conviction of an individual reported that a fine was imposed by a court. 37 out of 38 could provide detail on the level of fines imposed.

All 37 councils stated that magistrates had imposed a fine as a result of one or more of these convictions. 50% of the fines imposed were under £500, followed by 25% being of a value of £501 - £1,000. 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	50
£501 - £1,000	25
£1,001 - £1,500	8
£1,501 - £2,000	3
£2,001 - £2,500	2
Over £2,500	13
Total number of fines	119

Base: all authorities that knew the level of fines for some of their convictions (37)

Community orders and custodial sentences imposed by a Magistrates' Court

43 of the 51 councils could provide detail on whether their prosecutions resulted in either a community order or custodial sentence being imposed by a Magistrates' Court.

27 out of the 43 councils reported that a community order was imposed. 26 out of the 27 could provide detail on the number of community orders imposed. In total 55 community orders were imposed with a median average of two per council.

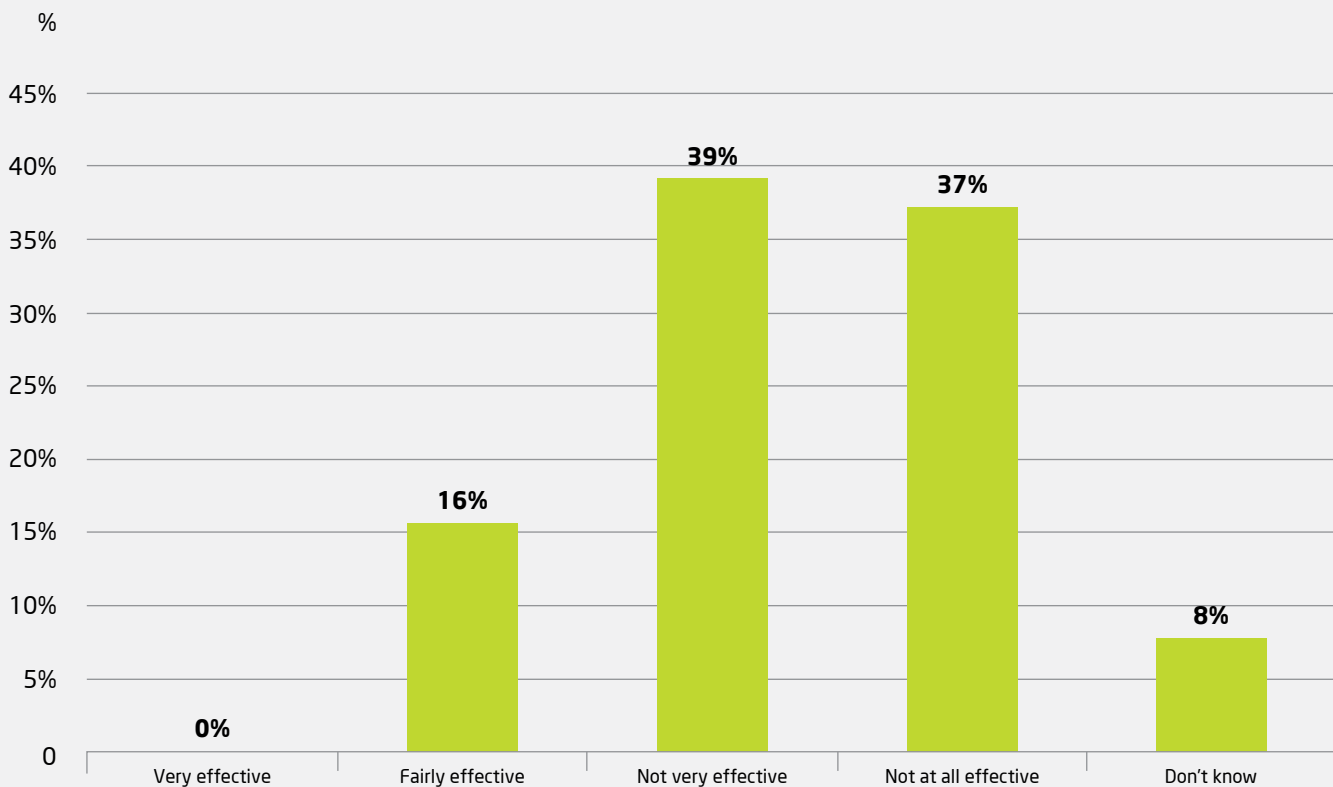
14 out of the 43 councils reported that a custodial sentence was imposed. All 14 provided detail on the number of custodial sentences, with 29 custodial sentences imposed, with a median average of one per council.

12 councils reported that neither a community order nor a custodial sentence was imposed and eight councils did not know.

Effectiveness of penalties (for convictions)

When asked how effective they believed the sanctions to be in altering future business practice, of the 51 councils that had imposed penalties as a result of a conviction, 76% considered them not very effective or not at all effective, with 16% selecting fairly effective and 8% not knowing.

Figure 12: How effective, or not, do you believe these penalties were for preventing repeat offending in relation to the supply of illicit tobacco products?



Base: all authorities reporting a prosecution ended in a conviction (51)



9 Display and pricing of tobacco products

The Tobacco Advertising and Promotion (Display) (England) Regulations 2010²⁶ and the Tobacco Advertising and Promotion (Display of Prices) (England) Regulations 2010²⁷ have been in force for a number of years.

The purpose of these Regulations is to effectively prohibit the display of tobacco products at point of sale in all business premises. The implementation of standardised packaging for tobacco products has further changed the way in which tobacco products appear in the retail environment. See section 12 for further information.

This report provides an indication of compliance across both large and small businesses in 2017/18.

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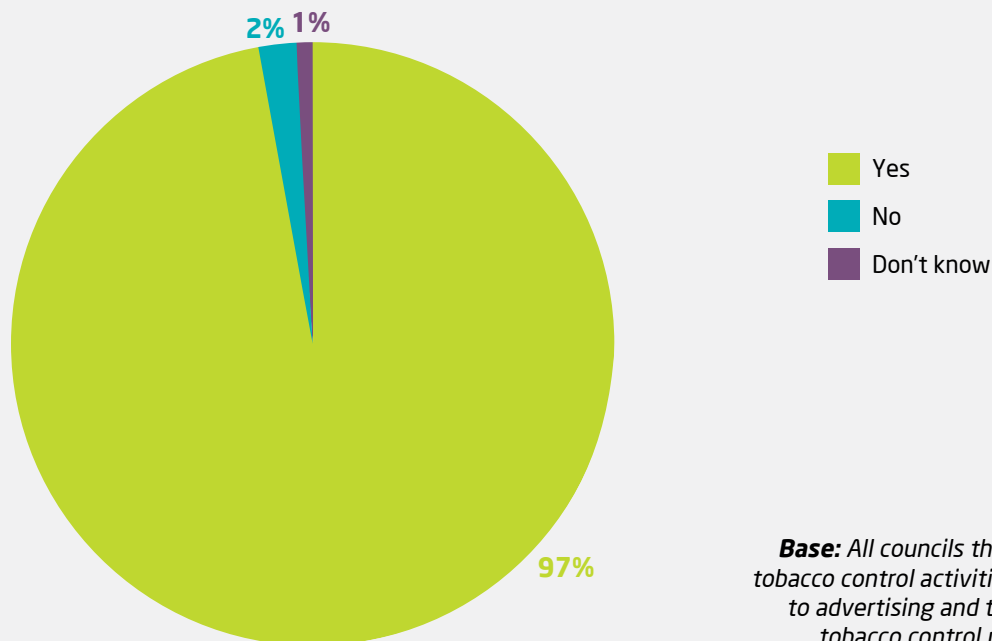
69% of all councils undertook tobacco control activities in relation to the display and pricing of tobacco products.

Significantly more councils undertook work related to the display and pricing of tobacco products in 2017/18 compared to 2016/17 (69% in 2017/18 compared to 56% in 2016/17).

Compliance visits

Of those councils that undertook tobacco control activities in relation to the display and pricing of tobacco products, 97% had carried out compliance visits at premises between 1 April 2017 and 31 March 2018. 2% had not, and 1% did not know.

Figure 13: Did your authority carry out compliance visits at retail premises between 1 April 2017 and 31 March 2018?



²⁶ Tobacco Advertising and Promotion (Display) (England) Regulations 2010 available at: <http://www.legislation.gov.uk/uksi/2010/445/contents/made> [accessed 22 June 2018]

²⁷ Tobacco Advertising and Promotion (Display of Prices) (England) Regulations 2010 available at: <http://www.legislation.gov.uk/uksi/2010/863/contents/made> [accessed 22 June 2018]

87 out of 96 councils that carried out compliance visits at retail premises to check for display requirements were able to provide detail of the outcome. 80 out of 95 councils that carried out compliance visits at retail premises to check for pricing requirements were able to provide detail on the outcome:

- Of 4,236 visits by councils in relation to display requirements, 95% were compliant with display requirements.
- Of 2,826 visits by councils in relation to pricing requirements, 99% reported compliance with pricing requirements.
- Of note, significantly more visits resulted in compliance with display requirements in 2017/18 than 2016/17 (95% in 2017/18 compared to 92% in 2016/17).

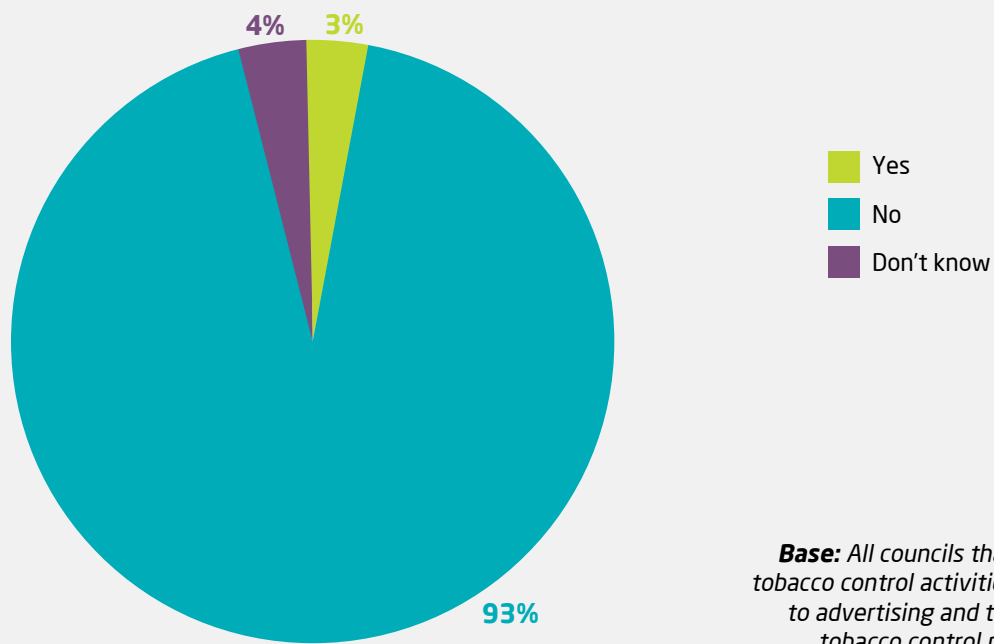
Table 20: Please provide the number of visits to retail premises with each of the following outcomes

Outcome	Proportion of visits	Median number per council (in councils taking action only)	Total number of visits
Compliance with display requirements	95	20	4,236
Compliance with pricing compliance	99	2	2,826

Base: All councils that carry out compliance visits at retail premises between 1 April 2017 and 31 March 2018 (87)

3% of councils that undertook work in relation to the display and pricing of tobacco products carried out compliance visits at wholesale/cash and carry businesses. 93% of councils did not and 4% did not know.

Figure 14: Did your authority carry out compliance visits at wholesale/cash and carry type businesses?





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

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

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	8	2	8
Compliance with pricing compliance	8	2	8

Base: All councils that carry out compliance visits at wholesale/cash and carry type businesses between 1 April 2017 and 31 March 2018 (3)

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

All councils that undertook activity in relation to the display and pricing of tobacco products were asked whether action was taken as a result of a breach of the Tobacco Advertising and Promotion Act 2002 in the 2017/18 financial year. Of councils that undertook activity in relation to the display and pricing of tobacco products, 30% stated that action was taken.

Respondents that took action were asked to provide detail on the types of action that were taken. Of those that took action, and could provide detail (all 30 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	93	4	30
Simple cautions issued	17	1	30

Of the councils that reported on the actions undertaken (all 30 councils), one took formal legal action. There were three prosecutions in total.

This council stated that there was one business conviction and two individual convictions.

None of the prosecutions were against repeat offenders.

Fines as a result of legal proceedings

One of the prosecutions ended in a fine being awarded by a Magistrates' Court. The fine was up to £500.

Community orders and custodial sentences imposed by a Magistrates' Court

One community order was imposed by a Magistrates' Court.

Effectiveness of penalties

When asked how effective they believed the sanction to be in altering future business practice, the council considered the penalty to be very effective.

10 Tobacco and related products: Tobacco and Related Products Regulations 2016 (TRPR)

Trading standards services have been engaged in several coordinated reviews of business and product compliance with the Tobacco and Related Products Regulations 2016²⁸ in 2017/18. The reviews assessed genuine cigarette and HRT products for compliance with the Regulations.

A review of tobacco product compliance with the Tobacco and Related Products Regulations 2016 and the Standardised Packaging of Tobacco Regulations 2015, completed November 2017²⁹ found that:

“Compliance with the Regulations was found to be high for both cigarette and HRT products with over 90% of all products assessed as being compliant”

However,

“Compliance with the labelling requirements [for ‘other tobacco products’] was found to be mixed with 87% of cigar products compliant but only 48% of smokeless tobacco products”³⁰.

Further compliance monitoring was then carried out and published in a review of compliance with Regulation 15 of the Tobacco and Related Products Regulations 2016 (use of flavours in tobacco products)³¹. The review found that:

“[Cigarette and HRT] compliance with Regulation 15 was found to be very high with 98-99% of all businesses visited being fully compliant”

However,

“Almost 25% of all premises visited had non-compliant shisha and blunts available. In these cases, the packaging was found to be non-compliant by virtue to reference to flavourings”³².

The *Tobacco Control Survey* report provides an overview of all activity undertaken across responding trading standards services. The findings report all actions taken in respect of the TRPR and include action taken for both genuine and illicit tobacco products; this explains the difference in compliance levels for cigarettes and HRT found between the commissioned reviews and the overall survey data. The data should not therefore be directly compared.

28 Tobacco and Related Products Regulations 2016 available at: <http://www.legislation.gov.uk/uksi/2016/507/contents/made> [accessed online 22 June 2018]

29 A review of tobacco products compliance with the TRPRs 2016 and the Standardised Packaging of Tobacco Regulations 2015. Published by CTSI (2017) available at: <https://www.tradingstandards.uk/media/documents/news--policy/tobacco-control/rr1-phase-12-report-final.pdf> [accessed online 20 June 2018]

30 *ibid*

31 A review of compliance with Regulation 15 of the Tobacco and Related Products Regulations 2016 (use of flavours in tobacco products) Published by CTSI, (2017) available at: <https://www.tradingstandards.uk/media/documents/news--policy/tobacco-control/mr-reg-15-october-2017-final.pdf> [accessed online 20 June 2018]

32 *ibid*



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71% of all councils undertook tobacco control activities in relation to the Tobacco and Related Products Regulations 2016 for tobacco related products only.

Visits undertaken to assess tobacco product compliance with the TRPRs (2016)

81% (of the 101 councils) provided detail on the number of visits undertaken to assess tobacco product compliance; where respondents were able to provide detail they undertook a total of 2,639 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 3,000 visits were undertaken to assess tobacco product compliance in England in 2017/18.

Visits undertaken to assess tobacco product compliance with the TRPRs (2016) by premises type

Councils were asked to provide a breakdown of the complaints and enquiries received by premises type³³.

Analysis has only been conducted where councils were able to provide an accurate breakdown across all premises types for visits; 80 councils that undertook visits were able to provide this detail.

Of the 2,411 visits by these councils, the largest proportion of visits were undertaken to convenience stores/small retailers (45%), followed by off-licences (29%). The smallest number of visits were undertaken online (< 0.5%).

Table 23: Proportion of visits undertaken by premises type

Type of premises	Visits undertaken (%)
Convenience store/small retailer	45
Off-licence	29
Independent newsagent	11
Petrol station kiosk	3
Large retailer	2
National newsagent	2
Pub/club	2
Private home	1
Market/car boot sale	1
Online	<0.5
Base number of visits	2,411
Number of councils providing data	80

Tobacco products non-compliant with TRPR assessment

Councils were asked to provide detail on which tobacco products were assessed as non-compliant with TRPR requirements. 69 out of the 82 councils were able to provide detail.

- Cigarettes were found to be non-compliant by 45% of councils, with non-compliant cigarettes found on 320 visits.
- HRT was found to be non-compliant by 43% of councils, with non-compliant HRT found on 243 visits.
- Tobacco blunts were found to be non-compliant by 42% of councils, with non-compliant tobacco blunts found on 204 visits.

Cigars and shisha were found to be non-compliant by the smallest proportion of councils (19%, on 33 and 31 visits respectively).

³³ For guidance on definitions of premises types please see annex 1

Table 24: On how many visits were each of the following tobacco products non-compliant with TRPR testing?

Type of product	Percentage of councils finding non-compliant products (%)	Number of visits councils find non-compliant tobacco products	Base
Cigarettes	45%	320	69
HRT	43%	243	
Tobacco blunts	42%	204	
Smokeless tobacco	28%	62	
Cigars	19%	33	
Shisha	19%	31	

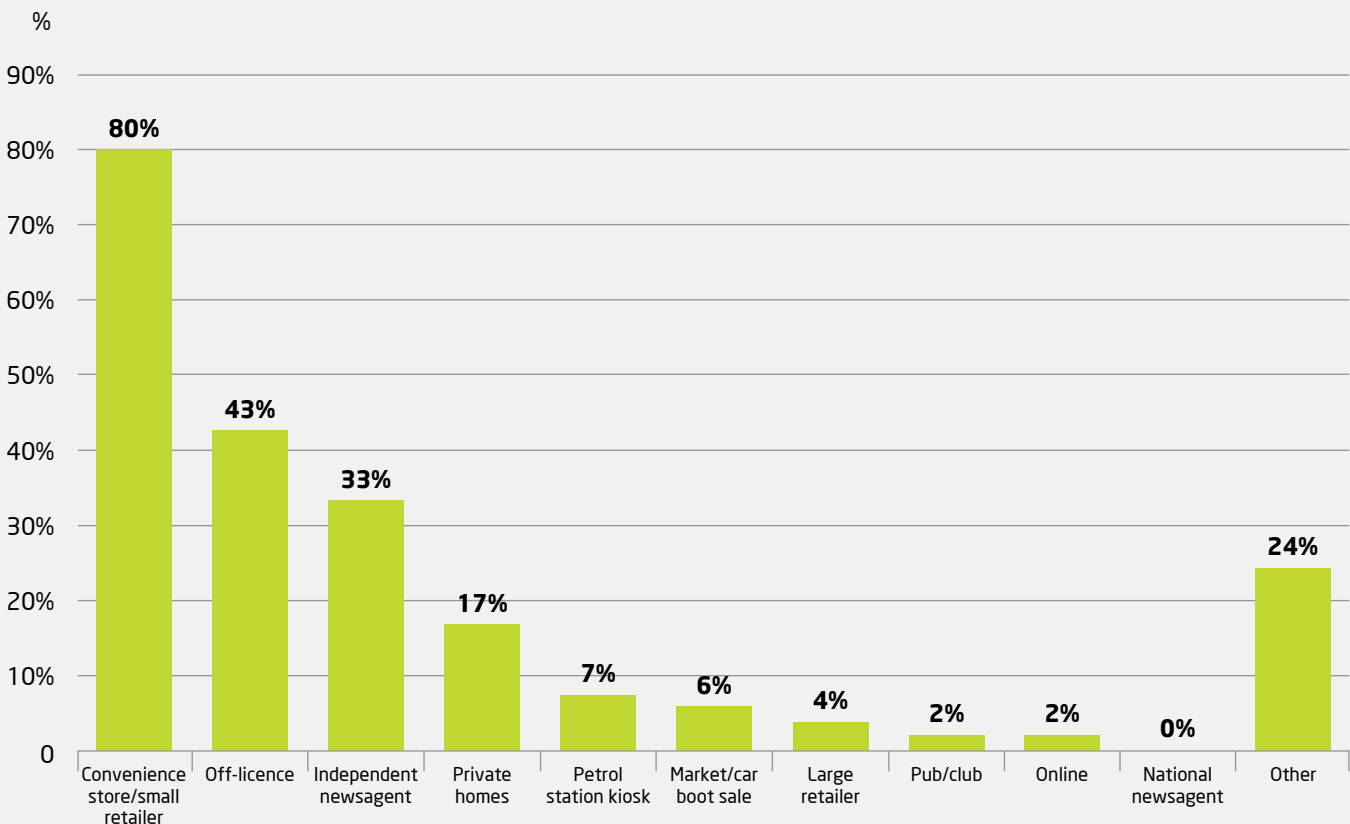
Premises where tobacco products were most often non-compliant

Councils were asked to provide detail on which premises type tobacco products were found to be non-compliant at. 54 out of the 82 councils were able to provide detail.

Convenience stores/small retailers were the premises type where the greatest proportion of councils (80%) reported non-compliant tobacco products being found. This was followed by off-licences (43%) and independent newsagents (33%).

Non-compliant tobacco related products were not found at national newsagents.

Figure 15: Premises types where tobacco products were found to be non-compliant



Base: All councils detailing premises where tobacco related products were found to be non-compliant (54)

In fact every tobacco product was most likely to be found to be non-compliant at a convenience store/small retailer (see Table 25).

**Table 25: Proportion of councils finding tobacco or related products at each type of store**

	Cigarettes	HRT	Cigars	Shisha	Smokeless tobacco	Tobacco blunts
Convenience store/small retailer	43	39	15	17	22	46
Large retailer	2	0	0	0	2	0
National newsagent	0	0	0	0	0	0
Independent newsagent	19	22	7	6	6	13
Off-licence	22	15	6	6	7	19
Petrol station kiosk	4	4	2	0	0	0
Market/car boot sale	2	2	0	0	0	4
Pub/club	2	2	0	0	0	0
Private home	15	15	0	0	2	0
Online	2	2	0	0	0	0
Other	6	11	6	6	7	2

Base: All councils detailing premises where tobacco related products were found to be non-compliant (54)

Actions taken in relation to TRPR assessment of tobacco products

95 out of 101 councils were able to provide detail on the actions they took in relation to TRPR assessment of tobacco products. Of councils that undertook activity in relation to the assessment of tobacco products, 67% stated that action was taken.

Respondents that took action were asked to provide detail on the types of action that were taken. Of those that took action, and could provide detail (64 councils), verbal or written warnings were the most common type of action to be taken.

Table 26: In relation to TRPR compliance for tobacco, how many of the following actions did your authority take as a result of breaches of TRPR Regulations in the period from 1 April 2017 to the 31 March 2018?

Type of action	Percentage taking action (%)	Median number per council (in councils taking action only)	Base
Verbal or written warnings	92	4	64
Simple cautions issued	27	2	64

Prosecutions relating to TRPR assessment of tobacco products

Of the councils that provided detail on the number of actions taken (64 councils), 27% took formal legal action. The median number of prosecutions was four per council, with 109 prosecutions in total. All 17 councils could provide detail on the outcomes of their prosecutions.

Four out of 17 councils stated that one of their prosecutions ended in a business conviction by 31 March 2018 (a total of 16 convictions, with a median average of three convictions per council). Three councils reported that they convicted repeat offenders, with a total of five repeat offenders being convicted, and a median of two per council.

12 out of 17 councils stated that one of their prosecutions ended in a conviction of an individual by 31 March 2018 (a total of 74 convictions, with a median average of five convictions per council). Seven councils reported that they convicted repeat offenders, with a total of 17 repeat offenders being convicted and a median average of two individual repeat offenders being convicted per council.

Five councils reported that no prosecutions had ended in a business conviction or the conviction of an individual by 31 March 2018.

Fines as a result of legal proceedings

Nine of the 12 councils that stated that their prosecutions had ended in either a business conviction or a conviction of an individual reported that a fine was imposed by a court. Eight out of nine councils could provide detail on the level of fines imposed.

All eight councils stated that magistrates had imposed a fine as a result of one or more of these convictions. 67% of the fines imposed were under £500, followed by 22% being of a value of £501 - £1,000. Table 27 depicts the findings.

Table 27: Level of fine, as a result of fine being imposed by the Magistrates' Court

Level of fine	Percentage of fines
Up to £500	67
£501 - £1,000	22
£1,001 - £1,500	6
£1,501 - £2,000	0
£2,001 - £2,500	0
Over £2,500	6
Total number of fines	51

Base: all authorities that knew the level of fines for some of their convictions (8)

Community orders and custodial sentences imposed by a Magistrates' Court

10 of the 12 councils could provide detail on whether their prosecutions ended in either a business conviction or a conviction of an individual and provided detail on whether community orders or custodial sentences were imposed by a Magistrates' Court.

Six out of the 10 councils reported that a community order was imposed. All six could provide detail on the number of community orders imposed. In total 17 community orders were imposed with a median average of three per council.

Four out of the 10 councils reported that a custodial sentence was imposed. All four provided detail on the number of custodial sentences, with six custodial sentences imposed with a median average of one per council.

Three councils reported that neither a community order nor a custodial sentence was imposed and two councils did not know.

Effectiveness of penalties (for convictions)

When asked how effective they believed the sanctions to be in altering future business practice, of the 12 councils that had imposed penalties as a result of a conviction, seven councils considered them not very effective or not at all effective, with three councils selecting fairly effective and two councils not knowing.



11 Nicotine inhaling products: Tobacco and Related Products Regulations 2016 (TRPR)

Trading standards services have been engaged in a review of business and product compliance with these Regulations³⁴ this year 2017-18; with a separate report published by CTSI:

“Rapid Review of Nicotine Inhaling Product Compliance with the Tobacco Product and Related Products Regulations: 2017”, completed in 2018³⁵.

The review found that:

“Almost a quarter of all products examined were found to be non-compliant with the Regulations - the majority for multiple reasons including labelling issues, lack of health warnings and information leaflets.”³⁶

The *Tobacco Control Survey* report provides an overview of activity undertaken across all responding trading standards services.

FINDINGS

65% of all councils undertook tobacco control activities in relation to the Tobacco and Related Products Regulations 2016 for nicotine inhaling products (NIPs).

Visits undertaken to assess NIPs compliance with the TRPRs (2016)

91% (of the 93 councils) provided detail on the number of visits undertaken to assess NIPS compliance; where respondents were able to provide detail they undertook a total of 1,368 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 1,500 visits were undertaken to assess NIPs compliance in England in 2017/18.

34 Tobacco and Related Products Regulations 2016 Op Cit

35 Rapid Review of Nicotine Inhaling Product Compliance with the Tobacco Product and Tobacco Product and Related Products Regulations. Published by CTSI (2018) available at: <https://www.tradingstandards.uk/media/documents/news--policy/tobacco-control/rr1-phase-3-final-report-for-dhsc.pdf> [accessed online 21 June 2018]

36 ibid

Visits undertaken to assess NIPS compliance with TRPRs (2016) by premises type

Councils were asked to provide a breakdown of visits undertaken by premises type³⁷.

Analysis has only been conducted where councils were able to provide an accurate breakdown across all premises types for visits; 82 out of the 85 councils that undertook visits were able to provide this detail.

Of the 1,271 visits by these councils, the largest proportion of visits were undertaken to specialist e-cigarette suppliers (41%), followed by convenience stores/grocers (25%). The smallest proportion of visits were undertaken at online retailers and national pharmacy chains (1% for both).

Table 28: Proportion of visits undertaken by premises type

Type of premises	Visits undertaken (%)
Specialist e-cigarette supplier	41
Convenience store/grocer	25
Independent newsagent	9
Market stall/car boot sale	4
Discount shop	4
National newsagent	3
Petrol station kiosk	2
Mobile phone shop	2
Large retailer	2
Pharmacy independent	2
Online retailer	1
Pharmacy national chain	1
Other	3
<i>Base number of visits</i>	1,271
<i>Number of councils providing data</i>	82

NIPS non-compliant with TRPR assessment

Councils were asked to provide detail on which NIPs were non-compliant with TRPR assessment on visits. 79 out of the 84 councils were able to provide detail.

- Refill products were found to be non-compliant by 66% of councils, with non-compliant refill products found on 329 visits.
- E-cigarettes were found to be non-compliant by 44% of councils, with non-compliant e-cigarettes found on 171 visits.

³⁷ For guidance on definitions of premises types please see annex 2



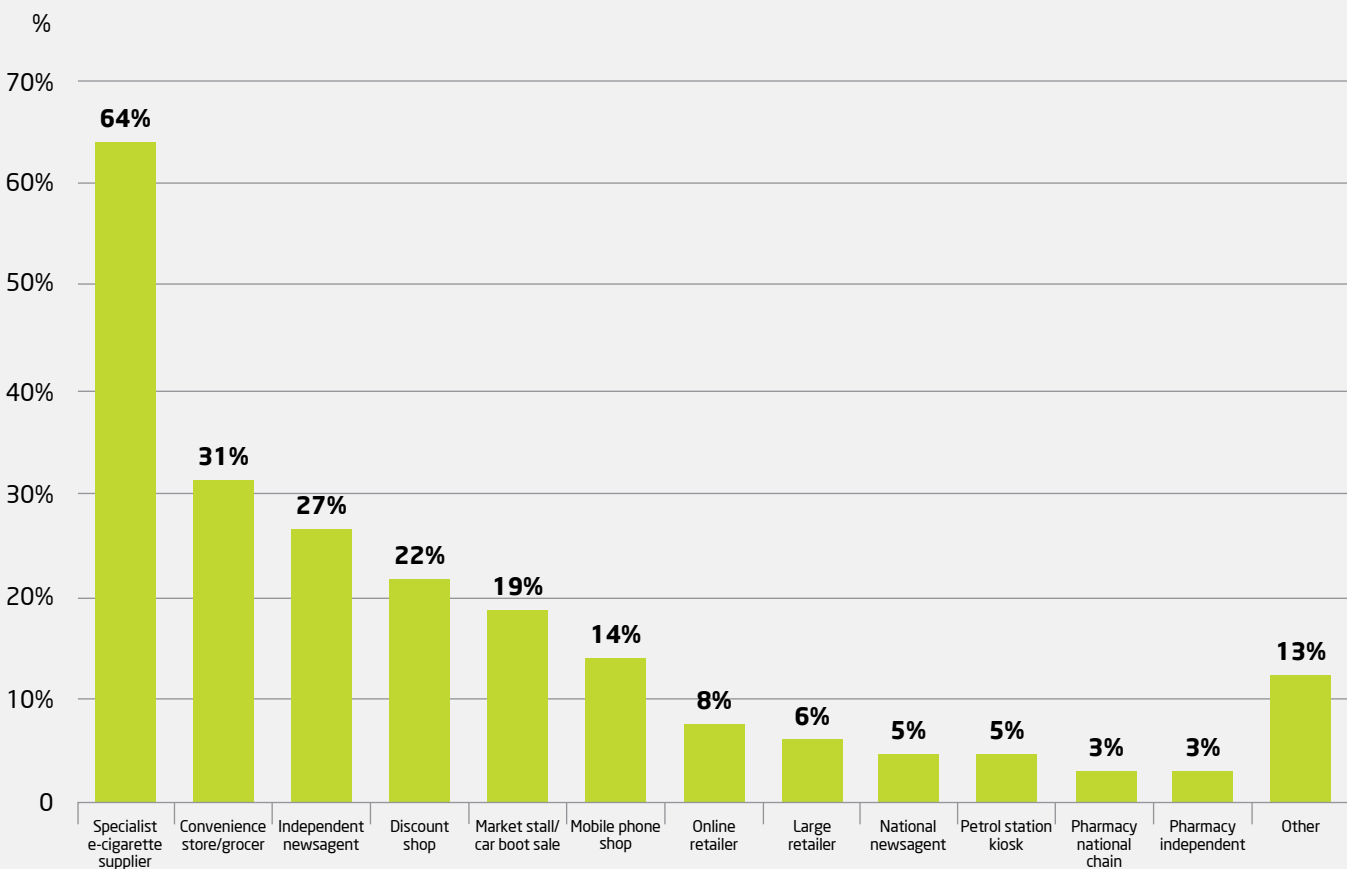
Premises where NIPs were most often non-compliant

Councils were asked to provide detail on which premises types NIPs were found to be non-compliant at. 54 out of the 82 councils were able to provide detail.

Specialist e-cigarette suppliers were the premises type where the greatest proportion of councils (64%) reported non-compliant NIPs being found. This was followed by convenience stores/grocers (31%) and independent newsagents (27%).

The premises types where non-compliant NIPs were least likely to be reported being found were national pharmacy chains and independent pharmacies, by 3% of councils for each type.

Figure 16: Premises type where NIPs were found to be non-compliant



Base: All councils detailing premises where NIPs were found to be non-compliant (64)

E-cigarettes and refill products were both most likely to be found to be non-compliant at specialist e-cigarette suppliers (see Table 29).

Table 29: Proportion of councils finding tobacco or related products at each type of store

	E-cigarettes	Refill products
Specialist e-cigarette supplier	41	56
Large retailer	3	3
Convenience store/grocer	13	28
National newsagent	0	3
Independent newsagent	8	22
Pharmacy national chain	2	2
Pharmacy independent	2	0
Market stall/car boot sale	13	16
Discount shop	8	17
Petrol station kiosk	0	5
Mobile phone shop	0	9
Online retailer	2	6
Other	5	0

Base: All councils detailing premises where tobacco related products were found to be non-compliant (64)

Actions taken in relation to TRPR assessment of NIPs

91 out of 93 councils were able to provide detail on the actions they took in relation to TRPR assessment of NIPs. Of councils that undertook activity in relation to the TRPR assessment of NIPs, 61% stated that action was taken.

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

Table 30: In relation to TRPR compliance for tobacco, how many of the following actions did your authority take as a result of breaches to TRPR Regulations in the period from 1 April 2017 to the 31 March 2018?

Type of action	Percentage taking action (%)	Median number per council (in councils taking action only)	Base
Verbal or written warnings	86	4	56
Simple cautions issued	18	1	56

Prosecutions relating to TRPR assessment of NIPs

Of the councils that had provided detail on the number of actions taken (61), 2% took formal legal action. There was one prosecution in total. This council was unable to provide detail on the outcomes of this prosecution.



12 Standardised Packaging of Tobacco Products Regulations 2015 (SPoT)

Trading standards services have been engaged in a review of business and product compliance with the Standardised Packaging of Tobacco Products Regulations 2015³⁸ this year 2017-18; with a report published by CTSI³⁹.

“Product compliance with the requirements of the Standardised Packaging of Tobacco Products Regulation 2015 was found to be generally good during this review although it was found to be higher for HRT (98%) than Cigarettes (88%). Where non-compliance was noted, it was usually as a result of old stock being available”.

The review cited above assessed genuine cigarette and HRT products for compliance with the Regulations.

The *Tobacco Control Survey* report provides an overview of all activity undertaken across responding trading standards services. The findings report all actions taken in respect of SPoT and include action taken for both genuine and illicit tobacco products; this explains the difference in compliance levels for cigarettes and HRT found between the commissioned review and the overall survey data. The data should not therefore be directly compared.

FINDINGS

59% of all councils undertook tobacco control activities in relation to the Standardised Packaging of Tobacco Products Regulations 2015 (SPoT).

Visits undertaken to assess tobacco product compliance with the SPoT (2015) requirements

92% (of the 89 councils) provided detail on the number of visits undertaken to assess compliance with SPoT; where respondents were able to provide detail they undertook a total of 2,797 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 3,000 visits were undertaken to assess tobacco product compliance with SPoT requirements in England in 2017/18.

Visits undertaken to assess tobacco product compliance with SPoT requirements by premises type

Councils were asked to provide a breakdown of the visits undertaken by premises type⁴⁰.

Analysis has only been conducted where councils were able to provide an accurate breakdown across all premises types for visits; 78 councils that undertook visits were able to provide this detail.

Of the 2,546 visits by these councils, the largest proportion of visits were undertaken to convenience stores/small retailers (45%), followed by off-licences (28%). The smallest number of visits were undertaken online (< 0.5%).

38 Standardised Packaging of Tobacco Products Regulations 2015; available at: <https://www.legislation.gov.uk/ukxi/2015/829/contents/made> [accessed 22 June 2018]

39 CTSI Op Cit

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

Table 31: Proportion of visits undertaken by premises type

Type of premises	Visits undertaken (%)
Convenience store/small retailer	45
Off-licence	28
Independent newsagent	13
Petrol station kiosk	3
Large retailer	2
National newsagent	2
Pub/club	2
Private home	1
Market/car boot sale	1
Online	<0.5
Other	2
<i>Base number of visits</i>	2,546
<i>Number of councils providing data</i>	78

Tobacco products non-compliant with SPoT requirements

Councils were asked to provide detail on which tobacco products were non-compliant with SPoT requirements on visits. 71 out of the 82 councils were able to provide detail.

- Cigarettes were found to be non-compliant by 65% of councils, with non-compliant cigarettes found on 356 visits.
- HRT was found to be non-compliant by 37% of councils, with non-compliant cigarettes found on 209 visits.
- Tobacco blunts (Reg 10 – ref to flavours) were found to be non-compliant by 34% of councils, with non-compliant tobacco blunts found on 208 visits.
- Shisha (Reg 10 – ref to flavours) was found to be non-compliant by the smallest proportion of councils (by 10%), on 26 visits.

Table 32: On how many visits were each of the following tobacco products non-compliant with SPoT requirements?

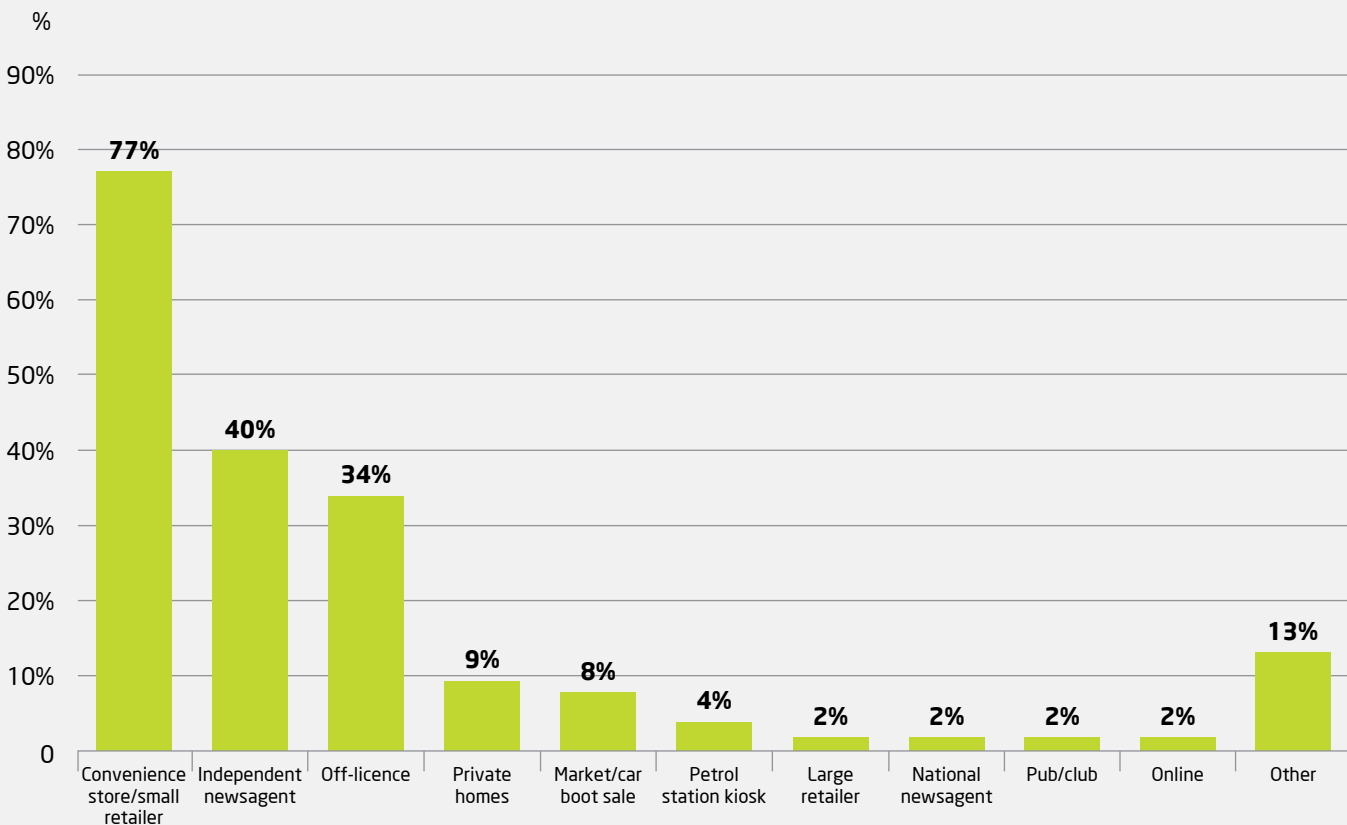
Type of product	Percentage of councils finding non-compliant products (%)	Number of visits councils find non-compliant tobacco products	Base
Cigarettes	65	356	71
HRT	37	209	
Tobacco blunts (Reg 10 – ref to flavours)	34	208	
Shisha (Reg 10 – ref to flavours)	10	26	

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

Councils were asked to provide detail on which premises type tobacco products were found to be non-compliant with SPoT requirements. 53 out of the 82 councils were able to provide detail.

Convenience stores/small retailers were the premises type where the greatest proportion of councils (77%) reported non-compliant tobacco products being found. This was followed by independent newsagents (40%) and off-licences (34%).

Only 2% of councils found non-compliant tobacco related products at large retailers, national newsagents, pubs/clubs and online.


Figure 17: Premises types where tobacco products were found to be non-compliant


Base: All councils detailing premises where tobacco related products were found to be non-compliant (53)

In fact every tobacco product was most likely to be found to be non-compliant at a convenience store or small retailer (see Table 33).

Table 33: Proportion of councils finding tobacco or related products at each type of store

	Cigarettes	HRT	Tobacco blunts (Reg 10 – ref to flavours)	Shisha (Reg 10 – ref to flavours)
Convenience store/small retailer	66	36	11	38
Large retailer	2	0	0	0
National newsagent	0	0	0	2
Independent newsagent	32	21	4	15
Off-licence	26	15	4	15
Petrol station kiosk	0	2	0	2
Market/car boot sale	4	4	4	2
Pub/club	2	2	0	0
Private home	9	8	0	0
Online	2	2	0	0
Other	8	6	4	4

Base: All councils detailing premises where tobacco related products were found to be non-compliant (53)

Actions taken in relation to SPoT compliance

87 out of 89 councils were able to provide detail on the actions they took in relation to SPoT compliance. Of councils that undertook activity in relation to the display and pricing of tobacco products, 54% stated that action was taken.

Respondents that took action were asked to provide detail on the types of action that were taken. Of those that took action, and could provide detail (47 councils), verbal or written warnings were the most common type of action to be taken.

Table 34: In relation to TRPR compliance for tobacco, how many of the following actions did your authority take as a result of breaches to TRPR Regulations in the period from 1 April 2017 to 31 March 2018?

Type of action	Percentage taking action (%)	Median number per council (in councils taking action only)	Base
Verbal or written warnings	87	2	47
Simple cautions issued	15	2	47

Prosecutions relating to SPoT compliance

Of the councils that had provided detail on the number of actions taken (47), 21% took formal legal action. The median number of prosecutions was three per council, with 31 prosecutions in total. Nine out of 11 councils could provide detail on the outcomes of their prosecutions.

Two out of nine councils stated that one of their prosecutions ended in a business conviction by 31 March 2018 (a total of four convictions, with a median average of two convictions per council). Both councils reported that they convicted repeat offenders with a total of three repeat offenders being convicted.

Five out of nine councils stated that one of their prosecutions ended in a conviction of an individual by 31 March 2018 (a total of 12 convictions, with a median average of two convictions per council). Three councils reported that they convicted repeat offenders, with a total of four repeat offenders being convicted and a median average of one individual repeat offender being convicted per council.

Four councils reported that no prosecutions ended in a business conviction or the conviction of an individual by 31 March 2018.



Fines as a result of legal proceedings

Four of the five councils that stated that their prosecutions had ended in either a business conviction or a conviction of an individual reported that a fine was imposed by a court. One council did not know if fines were imposed. All four councils could provide detail on the level of fines imposed.

All four councils stated that magistrates had imposed a fine as a result of one or more of these convictions. The greatest number of fines were £501 - £1,000 and £1,001 - £1,500 (three fines for each level). Table 35 depicts the findings.

Table 35: Level of fine, as a result of fine being imposed by the Magistrates' Court

Level of fine	Number of fines
Up to £500	1
£501 - £1,000	3
£1,001 - £1,500	3
£1,501 - £2,000	1
£2,001 - £2,500	0
Over £2,500	1
Total number of fines	9

Base: all authorities that knew the level of fines for some of their convictions (4)

Community orders and custodial sentences imposed by a Magistrates' Court

All nine could provide detail on whether their prosecutions ended in either a business conviction or a conviction of an individual and provided detail on whether community orders or custodial sentences were imposed by a Magistrates' Court.

One out of the nine councils reported that a community order was imposed. This council did not provide detail on the number of community orders imposed.

One out of the nine councils reported that a custodial sentence was imposed. This council reported one custodial sentence in total.

Six councils reported that neither a community order nor a custodial sentence was imposed and one council did not know.

Effectiveness of penalties (for convictions)

Of the nine councils that had penalties imposed as a result of a conviction, five councils considered them not very effective or not at all effective, with four councils not knowing.

13 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 industry⁴¹.

The *Local Government Declaration on Tobacco Control*⁴² was launched in May 2013. The declaration commits signatories to:

“Protect our tobacco control work from the commercial and vested interests of the tobacco industry by not accepting any partnerships, payments, gifts and services, monetary or in kind or research funding offered by the tobacco industry to officials or employees”.

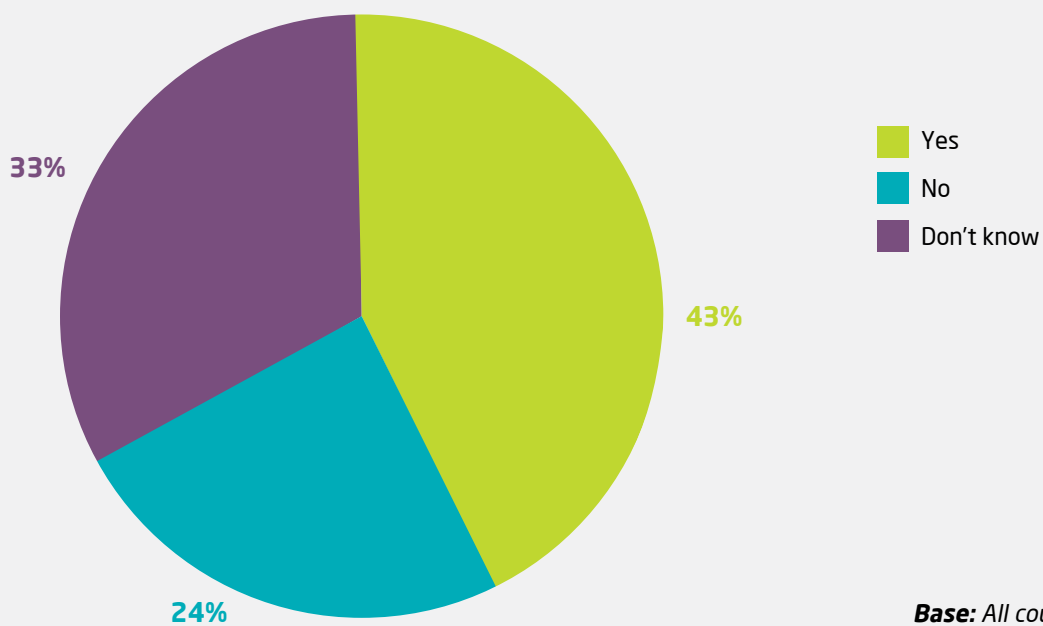
The following data seeks to explore the extent to which there are policies in place in councils and trading standards services addressing the principles of Article 5.3.

FINDINGS

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

Just over two fifths of councils (43%) stated that they did, with 24% stating that they did not, and a third (33%) stating that they did not know.

Figure 18: 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 2017-2018 financial year?



41 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 2018]

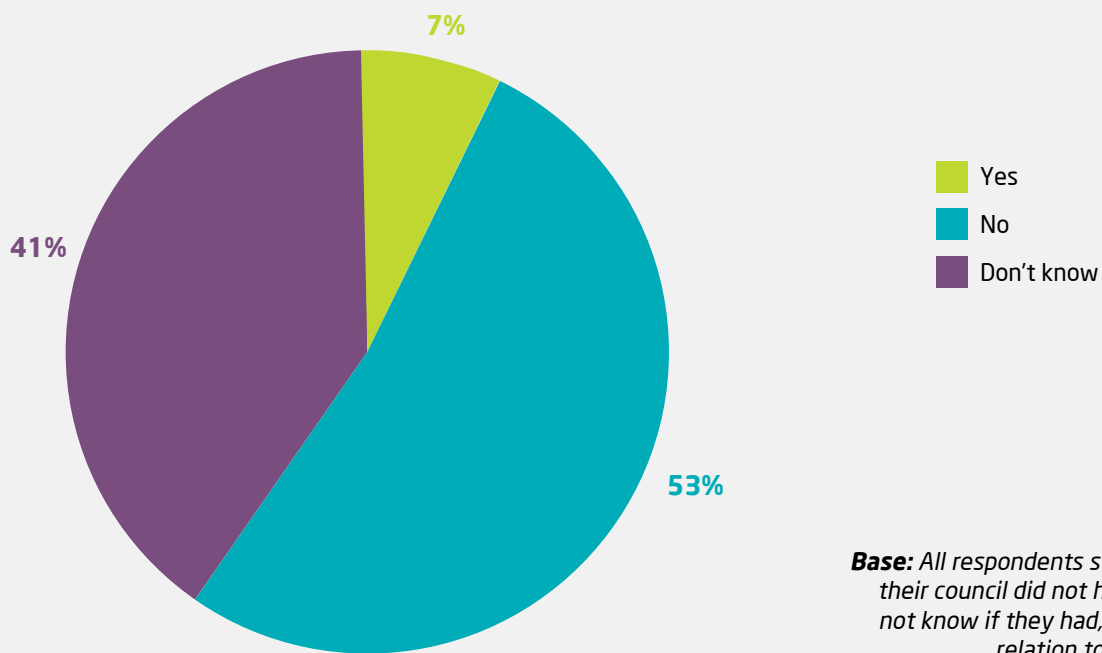
42 *Local Government Declaration on Tobacco Control* available at: <http://www.smokefreeaction.org.uk/localaction/declarations/index.html> [accessed online 2 May 2018]



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 2017/18.

Just over half (53%) stated that their trading standards service did not. Just over two-fifths (41%) stated that they did not know if their trading standards service had a policy in place, while 7% stated that their trading standards service did have a policy in place.

Figure 19: Did your trading standards service have a written policy in relation to Article 5.3 of the Framework Convention on Tobacco Control (FCTC) the tobacco industry in the 2017-2018 financial year (1 April 2017-31 March 2018)?



14 Conclusion

The types and level of tobacco control activity undertaken by trading standards in 2017/18 remain broadly the same as 2016/17 on the whole. However, the number of councils that undertook work in relation to the display and pricing of tobacco products has increased significantly from 56% in 2016/17 to 69% in 2017/18. This is likely to be as result of the inclusion of regulatory compliance monitoring as part of one of the DHSC commissioned reviews.

Work related to illicit tobacco activities has remained the activity most frequently undertaken by councils (92% of councils). The work least likely to be undertaken was in relation to SPoT (62% of councils).

Underage sales: tobacco products

Levels of activity in relation to underage sales of tobacco products remained broadly the same as in 2016/17. 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 2017/18 (at 10%) as for the last four years. Where the number of visits was over 20, the greatest percentage of sales occurred at independent newsagents, whereas in 2016/17 the greatest number occurred at petrol station kiosks. However, the overall proportion of sales at each premises type was not significantly different.

The level of actions (verbal warnings, simple cautions and prosecutions) remained broadly the same as in 2016/17. The overall number of fines was 10 (the same as in 2016/17); however, the greatest number of fines were between £501 and £1,000 (three fines).

Underage sales: NIPs

This is the third year that data has been collected about underage sales of NIPs: levels of activity were broadly similar to 2016/17. Broadly the same proportion of councils received complaints and enquiries and undertook visits with trading standards officers; the average number of complaints and enquiries also remained the same, as did the average number of visits.

The sales levels for test purchases remained broadly the same in 2017/18 (at 28%) as in 2016/17 (31%). Where the number of visits was over 20, the greatest percentage of sales occurred at discount stores, whereas in 2016/17 the greatest number occurred at markets/car boot sales. The overall proportion of sales at each premises type was not significantly different for all premises, except convenience stores/grocers where there was a significant decrease from 32% in 2016/17 to 10% in 2017/18.

The level of actions (verbal warnings, simple cautions and prosecutions) remained broadly the same as in 2016/17, with verbal or written warnings being most common and the number of prosecutions being low.

Illicit tobacco products

In 2017/18 illicit tobacco control activity broadly remained the same; findings of note include a statistically significant increase in the proportion of complaints and enquiries received overall (from an average of 31 complaints and enquiries per council in 2016/17 to an average of 41 complaints and enquiries per council in 2017/18).

Brands not for legitimate supply in the UK continued to be the product most likely to be seized, as in 2016/2017; L&M remained the brand that was the most frequently seized. Significantly fewer councils reported seizing 'other' types of brands not for legitimate supply in the UK and Email.

The level of actions (verbal warnings, simple cautions and prosecutions) remained broadly the same as in 2016/17, with verbal or written warnings being most common. Prosecutions in relation to illicit tobacco products were higher than any other tobacco control activities at 56%. Fines, however, were still at lower levels, with 50% of fines being up to £500.



Community orders and custodial sentences were also more often imposed as a result of prosecutions for illicit tobacco activity than other activities. Over half of the councils that had outcomes for their prosecutions reported that community orders were imposed, whilst 14 councils reported that prosecutions resulted in custodial sentences.

Despite the greater occurrence of prosecutions, 76% considered the penalties not very effective or not at all effective.

Display and pricing of tobacco products

Levels of activity in relation to display and pricing of tobacco products increased in 2017/18, with a significant increase in the number of councils that undertook this activity.

Where this activity was undertaken, nearly all councils that undertook this work (97%) carried out compliance visits at retail premises; the vast majority of visits undertaken were compliant with both display and pricing requirements (95% and 99% of all visits respectively).

This is compared to very few councils having undertaken visits to wholesale/cash and carry businesses (just 3%). Very few visits were undertaken (only eight) although nearly all were compliant with both display and pricing requirements.

Typically, where action was taken, for the majority of councils (93%) this was written or verbal warnings. Only one council undertook prosecutions, three in total. One prosecution resulted in a fine and one in a custodial sentence.

Tobacco and Related Products Regulations 2016: tobacco related products only

Councils provided data on the TRPR Regulations for a second year, but with a more detailed set of questions. Just under three quarters (71% of councils) undertook activity in relation to TRPR for tobacco products.

Cigarettes were found to be non-compliant with the Regulations by the greatest proportion of councils. Convenience stores/small retailers were the premises type where non-compliant products were most likely to be found (80% of councils reporting non-compliant products at this premises type). However, nearly half of all visits were undertaken to this type of premises.

Actions were taken by two thirds of councils; typically, where action was taken, for the majority of councils (92%) this was written or verbal warnings. However, prosecutions were undertaken by just over a quarter of councils. 51 fines were imposed in total; however, the fines were mainly lower values (with 67% of fines being up to £500). A small number of councils reported that community orders were imposed and custodial sentences (six and four councils respectively).

Tobacco and Related Products Regulations 2016: NIPs

Councils provided data on the TRPR Regulations for a second year – but with a more detailed set of questions about NIPs. 63% of councils undertook activity in relation to TRPR for NIPs.

Refill products were found to be non-compliant with the Regulations by the greatest proportion of councils. Specialist e-cigarette suppliers were the premises type where non-compliant products were most likely to be found (64% of councils reporting non-compliant products at this premises type). However, two fifths of visits were undertaken to this type of premises.

Actions were taken by 61% of councils; typically, where action was taken, for the majority of councils (86%) this was written or verbal warnings. Prosecutions were rare, undertaken by just 2% of councils.

Standardised Packaging of Tobacco Products Regulations 2015 (SPoT)

Councils provided data on the SPoT Regulations for a second year, but with a more detailed set of questions. 59% of councils undertook activity in relation to SPoT.

Similarly to TRPR for tobacco products, cigarettes were found to be non-compliant with the Regulations by the greatest proportion of councils. Convenience stores/small retailers were the premises type where non-compliant products were most likely to be found (77% of councils reporting non-compliant products at this premises type). However, nearly half of all visits were undertaken to this type of premises.

Actions were taken by just over half of councils (54%); typically, where action was taken, for the majority of councils (87%) this was written or verbal warnings. However, prosecutions were undertaken by just over a fifth of councils; levels of fines, community orders and custodial sentences were low.

Article 5.3 of the Framework Convention on Tobacco Control

Broadly the same proportion of councils (43%) in 2017/18 as in 2016/17 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 the 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

Premises	Guidance/Examples
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).



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