

# Tobacco Control Survey, England 2013/14:

## 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 2013 to March 2014.

An online survey was emailed to all councils in England in April 2014 undertaking tobacco control activities (151 councils in total). The deadline for completion of the survey was Friday 23 May 2014. The survey was completed by 148 councils, which provided a response rate of 98 per cent. Although this response rate is high, the base for some findings does vary, as not every respondent answered every question.

## Tobacco control activities

- Ninety eight per cent of councils were undertaking at least one type of tobacco control activity.
- Of all councils:
  - Ninety one per cent had undertaken activities related to illicit tobacco products.
  - Eighty eight per cent had undertaken activities related to under-age sales.
  - Seventy nine per cent had undertaken activities related to collaborative working.
  - Sixty five per cent had undertaken activity related to electronic cigarettes.
  - Forty five per cent had undertaken activity related to niche tobacco supply.
  - Thirty four per cent had undertaken activities related to tobacco advertising.

## Under-age sales: premises

- Eighty eight per cent of all councils had conducted tobacco control activities in relation to under-age sales.
- Eighty four per cent of all councils had dealt with complaints and enquiries about under-age sales of tobacco concerning retail premises, receiving 1,663 complaints and enquiries in total. If this figure is used as an indication of the likely picture in non-responding councils, this would mean an estimated total of around 1,800 complaints and enquires about under-age sales from retail premises would have been received in England in 2013/14.
- Seventy eight per cent of all council had visited premises with trading standards officers in relation to underage sales, undertaking 5,126 visits in total. If this figure is used as an indication of the likely picture in non-responding councils, this would mean an estimated total of around 5,800 visits in relation to under-age sales from retail premises would have been made by trading standards officers in England in 2013/14.
- One hundred and eight out of the 115 councils, who had undertaken visits with trading standard officers concerning retail premises, were able to provide detail on the types of premises where visits had been undertaken. The greatest proportion of visits had been undertaken regarding small retailers (36 per cent of all visits undertaken by trading standard officers).

Seventy four per cent of all councils (which is 76 per cent of those who conduct activities related to under-age sales) had carried out visits to retail premises with volunteer young persons (aged under 18) to test compliance with the legislation on the sale of tobacco products to under 18s. Of these:

- One hundred and four, out of 110 councils had supplied the number of premises visited; the total number was 2,929. If this figure is used as an indication of the likely picture in non-responding councils, this would mean an estimated total of around 3,600 premises across England would have been visited by volunteer young person's conducting test purchase operations in 2013/14.
- Seventy five per cent reported that cigarettes or tobacco products had been sold to the volunteer young persons in at least one premises; cigarettes were sold to under-age young persons at a total of 292 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 400 premises across England would have been detected making illegal sales of tobacco products to under-age young persons in 2013/14.
- Where data was provided on the number of premises and number of sales, illegal sales of cigarettes occurred in 10 per cent of test purchase operations.
- Eighty eight councils out of 110 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 (40 per cent). The greatest proportion of sales occurred at market/car boot sales (50 per cent); however only four test purchases were attempted at this type of premise. The greatest proportion of sales occurred at petrol station kiosks (15 per cent) where over 50 test purchases took place.

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

Fifty nine per cent of all councils (which is 79 per cent of those who conducted activities related to under-age sales) stated that action had been taken as a result of breaches of the Children and Young Persons Act 1933 (as amended). Of these:

- Verbal or written warnings were the most common type of action to be taken by the majority of councils (74 per cent).
- 27 per cent had undertaken legal action (prosecution cases).
- Twelve councils stated that one or more of their prosecution cases against a business had ended in a conviction (resulting in a total of 14 convictions). One business conviction was a 'repeat offender'.
- Ten councils stated that one or more of their prosecution cases had ended in conviction of an individual (resulting in a total of 20 individual convictions).
- Fifteen councils reported that magistrates had imposed a fine as a result of one or more of these convictions. The majority (64 per cent) of fines imposed were £500 or less.
- No restricted sales or premises orders had been approved.

## Illicit tobacco products

- Ninety one per cent of all councils were undertaking work in relation to illicit tobacco products.
- Forty three per cent of all councils had undertaken joint operations with Her Majesty's Revenue and Customs (HMRC).
- Seventy per cent of all councils stated that there was a strategy in place in their region to tackle illicit tobacco products.

- Seventy eight per cent of all councils had dealt with complaints and enquiries about illicit tobacco products, receiving 2,633 complaints and enquiries in total. If this figure is used as an indication of the likely picture in non-responding councils, this would mean an estimated total of around 3,000 complaints and enquires about illicit tobacco products would have been received in England in 2013/14.
- One hundred out of the 115 councils, who had received complaints and enquiries concerning illicit tobacco products, were able to provide detail on the types of premises that complaints and enquiries had been received about. The greatest proportion of complaints and enquiries had been received regarding small retailers (40 percent of all complaints and enquiries).
- Eighty per cent of all councils had visited premises in relation to illicit tobacco products, achieving a total of 3,794 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 4,400 premises would have been visited across England in 2013/14 in relation to illicit tobacco products.
- One hundred and six out of the 115 councils, who had undertaken visits in relation to illicit tobacco products, were able to provide detail on the types of premises complaints and enquiries had been received about. The greatest proportion of complaints and enquiries were regarding small retailers (51 per cent of all visits).

Of the sixty nine councils who could provide detail on the types of illicit tobacco product seized:

- The greatest proportion of councils (55 per cent) stated that visits had resulted in the seizure of genuine non-UK duty paid hand-rolling tobacco.
- The brand of illicit white cigarette most frequently seized was Jin Ling (25 councils).
- Two fifths of councils (40 per cent) reported that the average intended sales price of illicit cigarettes seized was £3.01 to £4.00. It was most frequently stated that illicit cigarettes seized originated from Poland (30 councils) and Russia (16 councils).
- Nearly half of councils (47 per cent) did not know the average intended sales price of seized hand rolling tobacco. It was most frequently stated that illicit hand rolling tobacco seized originated from Poland (14 councils) and Belgium (12 councils).

## Illicit tobacco products: actions taken

Fifty per cent of all councils had taken action in relation to illicit tobacco products. Of these:

- Verbal or written warnings were the most common type of action taken by councils (59 per cent).
- Twenty nine per cent had issued simple cautions.
- Forty seven per cent of councils had undertaken legal actions (prosecutions).
- Fifteen councils stated that one or more of their prosecution cases against a business had ended in a conviction (resulting in a total of 31 convictions). Eight convictions were for repeat offenders.
- Twenty six councils stated that one or more of their prosecution cases had ended in a conviction of an individual (resulting in a total of 68 convictions of individuals). Eight convictions were for repeat offenders.

## Advertising and the display of tobacco products

- Thirty four per cent of all councils conducted tobacco control activities in relation to tobacco advertising.

Of these:

- Seventy one per cent had carried out compliance visits at large retail premises.
- Twenty four per cent had carried out compliance visits at wholesale/cash and carry businesses.

## Niche tobacco products

- Forty five per cent of all councils had conducted tobacco control activities in relation to niche tobacco supply.

Of these:

- Seventy eight per cent stated that they had detected niche tobacco products without appropriate labelling (health warnings) between 1 April 2013 and 31 March 2014.
- Most frequently respondents stated that they had detected tobacco blunts (27 councils).

## Niche tobacco products: actions taken

Twenty six per cent of all councils (which is 58 per cent of those who conducted activities related to niche tobacco products) had taken action in relation to niche tobacco products. Of these:

- Verbal or written warnings were the most common type of action taken by councils (72 per cent).
- Eight per cent had issued simple cautions.
- Twenty per cent had undertaken legal actions (prosecutions).
- Five councils stated that a prosecution had ended in a conviction, with seven business and 14 convictions of individuals.

## Collaborative working

- Seventy nine per cent of all councils had undertaken some form of collaborative working.

Of these:

- Seventy six per cent of councils stated that there was a local tobacco control or smoke free alliance in their local authority area.
- Seventy four per cent of councils reported that they had worked from a current Tobacco Control Strategy.



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

- Seventy eight per cent of all councils had undertaken work with key partners.

Of the 117 councils conducting partnership work:

- The greatest proportion (75 per cent) selected that their key partnership was with either public health teams in their local authority or the police.
- Sixty nine per cent of councils undertaking collaborative working stated that tobacco control was included in their health and wellbeing strategy.
- Fifty eight per cent of councils working in collaboration stated that tobacco control was included in their joint strategic needs assessment.
- Nearly half of councils (47 per cent) stated that tobacco control had become more of a priority since public health teams had been brought back into local authorities.
- Forty five per cent thought collaboration had increased around tobacco control in their local area since public health teams had been brought back into local authorities.

### **Electronic cigarettes**

- Sixty five per cent of all councils had undertaken tobacco control activities in relation to electronic cigarettes.

Of those councils:

- Eighty nine per cent had provided advice on electronic cigarettes.
- The greatest proportion of councils (82 per cent) had provided advice to retailers.

Of the councils that had provided advice to consumers (42 councils):

- Most frequently (for 40 out of 42 councils) advice was provided about the risk of electrical components.

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

- Twenty six per cent of all councils had a written policy, in relation to article 5.3 of the Framework Convention on Tobacco Control (FCTC).



## 1 Introduction

This report presents the findings of a survey of tobacco control activities carried out by council trading standards between April 2013 and March 2014; the survey has been supported by the Department of Health (DH). This year, the survey has been reviewed by both Her Majesties Revenue and Customs (HMRC) and Action on Smoking and Health (ASH) and, as a result, for the first time, the report also presents data relating to council policy on the World Health Organisation (WHO) Framework Convention on Tobacco Control (FTCT) Article 5.3 (protection of Public Health Policy from the vested interests of the tobacco industry)<sup>1</sup>.

This is the second report produced by the Trading Standards Institute (TSI) and follows, as far as possible the format of previous surveys conducted by the Local Government Association (LGA).

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

- Conduct of test purchase operations with under-age young persons at retail premises;
- Tackling the supply of illicit tobacco products i.e. counterfeit/smuggled tobacco products; with a request for enhanced detail regarding the products and countries of origin made in response to a request from HMRC;
- Monitoring the supply of niche tobacco products;
- Monitoring the advertising and display of tobacco products in large and cash and carry premises;
- Collaborative working with other agencies to tackle tobacco related issues; again this section has been expanded at the request of ASH.

The survey once again seeks to gather data concerning electronic cigarettes in order to establish a more comprehensive picture of the issues that are facing trading standards services in relation to these products.

## Context

Although the smoking prevalence of adults in England has fallen in recent decades from 35 per cent of adults in 1982 compared to 28 per cent in 1998 and 21 per cent in 2009, data from the integrated household survey for 2011-12<sup>2</sup> reveals that 20 per cent of adults over the age of 18 years remain current smokers. This figure masks higher rates that occur depending upon socio-economic status and geographical region.

In routine and manual groups the overall prevalence is 30 per cent with rates as high as 48 per cent in Dover (South East Region) and 46 per cent in Copeland (North East Region). In general, regions in the North have a higher prevalence than recorded elsewhere for example the Yorkshire and Humber Region had 22 per cent current smokers compared to 19 per cent current smokers in the South East.

<sup>1</sup> This section was inserted at the request of Action on Smoking and Health (ASH).

<sup>2</sup> Integrated Household Survey Data 2011-12 <http://www.lho.org.uk/viewResource.aspx?id=16678> [accessed online 20 June 2014]

In England, the Department of Health (DH) and Public Health England (PHE) provide the lead in determining the approach to be taken for comprehensive tobacco control. *Healthy Lives, Healthy People: A Tobacco Control Plan for England*<sup>3</sup>, published in March 2011, states that Government will:

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

*Our Priorities 2013:14 Public Health England*<sup>4</sup> published in 2013, states that the organisation will:

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

Internationally, the WHO FCTC<sup>5</sup> describes essential elements of comprehensive tobacco control policy; council trading standards have a leading role to play in delivering the regulatory strands of comprehensive tobacco control working in collaboration with a range of colleagues locally and regionally.

Specifically, Trading Standards are engaged in tackling the supply of illegal products, the prevention and detection of illegal underage sales and the control of tobacco advertising and display. The data collected in this survey and reported here helps to inform the DH about this and other regulatory matters that are of interest to policy makers and practitioners alike.

## 2 Methodology

The 2013/14 survey questionnaire was developed jointly by the DH and the TSI with support from HMRC and ASH.

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, local councils who had not completed the survey were contacted individually and encouraged to do so.

The link to the 2013/14 on-line questionnaire was emailed to all single tier councils on 8 April 2013<sup>6</sup>, and by the end of fieldwork on 23 May it had been completed by 148 councils, which provided a response rate of 98 per cent. Although the vast majority of councils responded, the base does vary, as not every respondent answered every question.

<sup>3</sup> Department of Health, 2011. *Healthy Lives, Healthy People: A Tobacco Control Plan for England*. [e-book]. Available through: Department of Health [http://www.dh.gov.uk/prod\\_consum\\_dh/groups/dh\\_digitalassets/documents/digitalasset/dh\\_124960.pdf](http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_124960.pdf) [accessed online 20 June 2014]

<sup>4</sup> Public Health England 2013, *Our Priorities 2013:14* [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/192676/Our\\_priorities\\_final.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/192676/Our_priorities_final.pdf) [accessed online 20 June 2014]

<sup>5</sup> World Health Organisation: Framework Convention on Tobacco Control [http://www.who.int/fctc/text\\_download/en/](http://www.who.int/fctc/text_download/en/) [accessed on line 24 June 2014]

<sup>6</sup> This survey was not sent to the Isles of Scilly as there is no trading standards service operating on the islands.

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

**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	32	97
Metropolitan district	36	36	100
Unitary authority	55	53	96
<b>Base</b>	<b>151</b>	<b>148</b>	<b>98</b>

**Table 2: Response rate by region**

Region	Total number in region	Number of respondents	Response rate (%)
East Midlands	9	9	100
East of England	11	11	100
London	33	32	97
North East	12	12	100
North West	23	21	91
South East	19	19	100
South West	15	15	100
West Midlands	14	14	100
Yorkshire and the Humber	15	15	100
<b>Base</b>	<b>151</b>	<b>148</b>	<b>98</b>

All figures provided in the main report are with reference to tobacco control activity conducted in England between 1 April 2013 and 31 March 2014, unless otherwise stated.

Figures are reported as a percentage of the total number of respondents to this survey (148) unless otherwise stated.

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

Results are directly compared to the 2012/13 survey only where time series data is available and there are statistically significant differences. Two types of tests to check for statistically significant difference were run: chi squared tests to compare differences between proportions and paired T-tests to provide comparison to mean averages between years. Please note the 2012/13 survey achieved 147 respondents (or a 97 per cent response rate).

### 3 Tobacco control activities

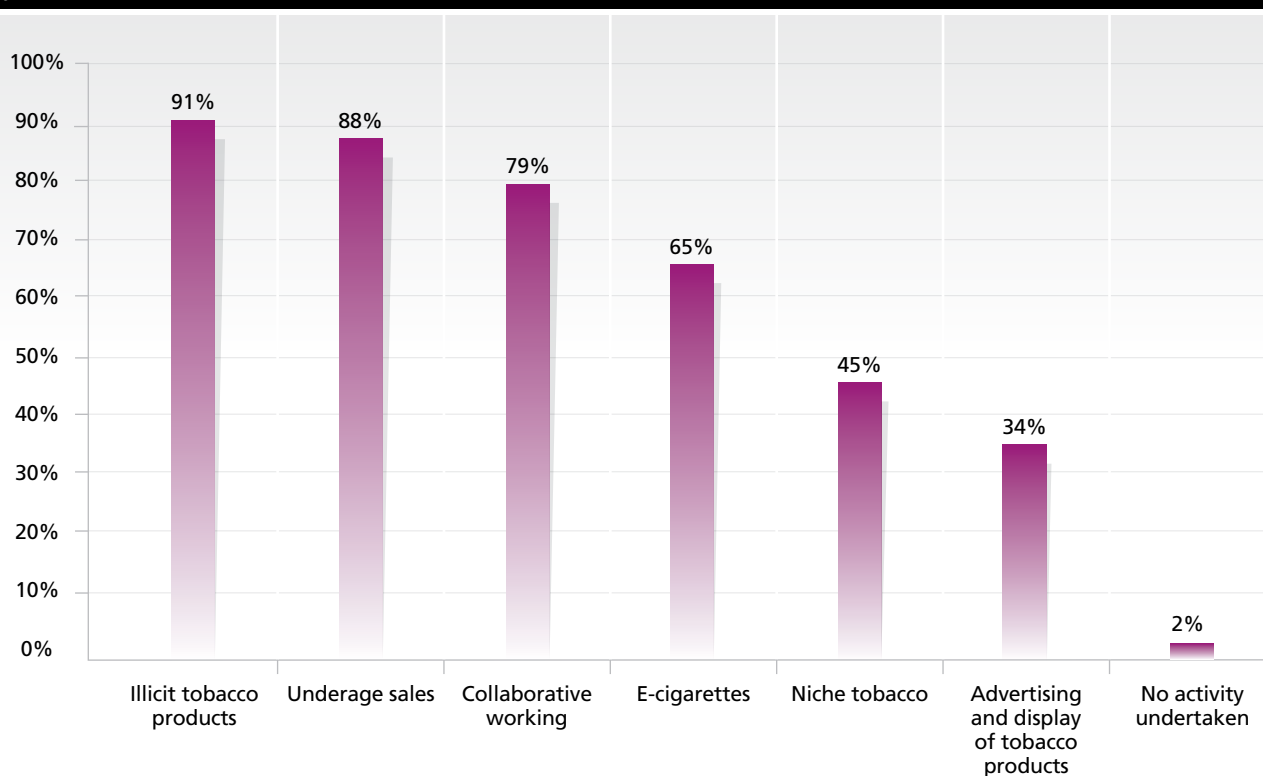
Respondents were asked which core tobacco control activities, from a list of six, their council had undertaken in the financial year 2013/14.

Ninety seven per cent of councils of councils were undertaking at least one type of activity. The activity most frequently undertaken was work related to illicit tobacco (91 per cent of councils), with fewest (35 per cent) being involved in activities related to the advertising and display of tobacco products.

There has been a significant decrease since 2012/13 in the number of councils:

- conducting activities in relation to under-age sales (decreasing from 95 per cent to 88 per cent of councils);
- undertaking collaborative working (decreasing from 86 per cent to 79 per cent of councils);
- conducting activities in relation to advertising and display of tobacco products (decreasing from 70 per cent to 34 per cent of councils).

**Figure 1: Which, if any, of the following tobacco control activities has your council undertaken in the financial year 2013/14?**



**Base:** all councils (148)

## 4 Under-age sales activity

The Government outlines the following national ambition in relation to young people in *Healthy Lives, Healthy People*<sup>7</sup>:

*'To reduce rates of regular smoking among 15 year olds in England to 12 per cent or less by the end of 2015'.*

The annual survey of young people and their smoking, drinking and drug use published in July 2013<sup>8</sup> found that in 2012, the percentage of 15 years olds that reported smoking in the past week was 15 per cent with the overall percentage of young people (between 11 - 15 years) found to be six per cent .

The survey also found that 23 per cent of pupils aged 11 to 15, in England, had tried smoking at least once. This is lower than in 2011 (25 per cent), and continues the decline in the proportion of pupils who have smoked since 1996 when it was 49 per cent.

This is a positive trend and encouraging since evidence suggests that young people who smoke become addicted to nicotine very quickly; they also tend to continue smoking into adulthood. The risk of developing lung cancer or heart disease is related to the length of time a person has smoked, thus people who take up smoking before the age of 18 face a greater than-average risk of developing the conditions.

The highest rates of smoking amongst children are recorded in the North East, North West and Yorkshire and Humber regions; this mirrors the data for adult smokers.

Table 3: Proportion of pupils that have ever smoked 2011-12 by region<sup>9</sup>

	East Midlands	East of England	London	North East	North West	South East	South West	West Midlands	Yorkshire & the Humber
Boys (%)	23	24	21	29	25	25	24	22	24
Girls (%)	22	23	22	31	26	25	25	23	30
<b>Total (%)</b>	<b>22</b>	<b>24</b>	<b>22</b>	<b>30</b>	<b>25</b>	<b>25</b>	<b>24</b>	<b>22</b>	<b>27</b>

Of current regular smokers, the survey found that 60 per cent of those young people surveyed cited shops as the main source of cigarettes with purchase from other people and given by friends as the next most usual source.

A further analysis of those that purchased from shops reveals that it is those young people in the older age range that use this source; with the percentage of younger children (under 15 years) being very low.

<sup>7</sup> Ibid, 3

<sup>8</sup> Source: *Health and Social Care Information Centre, Smoking Drinking and drug use among young people in England 2012*

<sup>9</sup> ibid

Figure 2: Main source of cigarettes, by smoking status<sup>10</sup> *Current smokers*

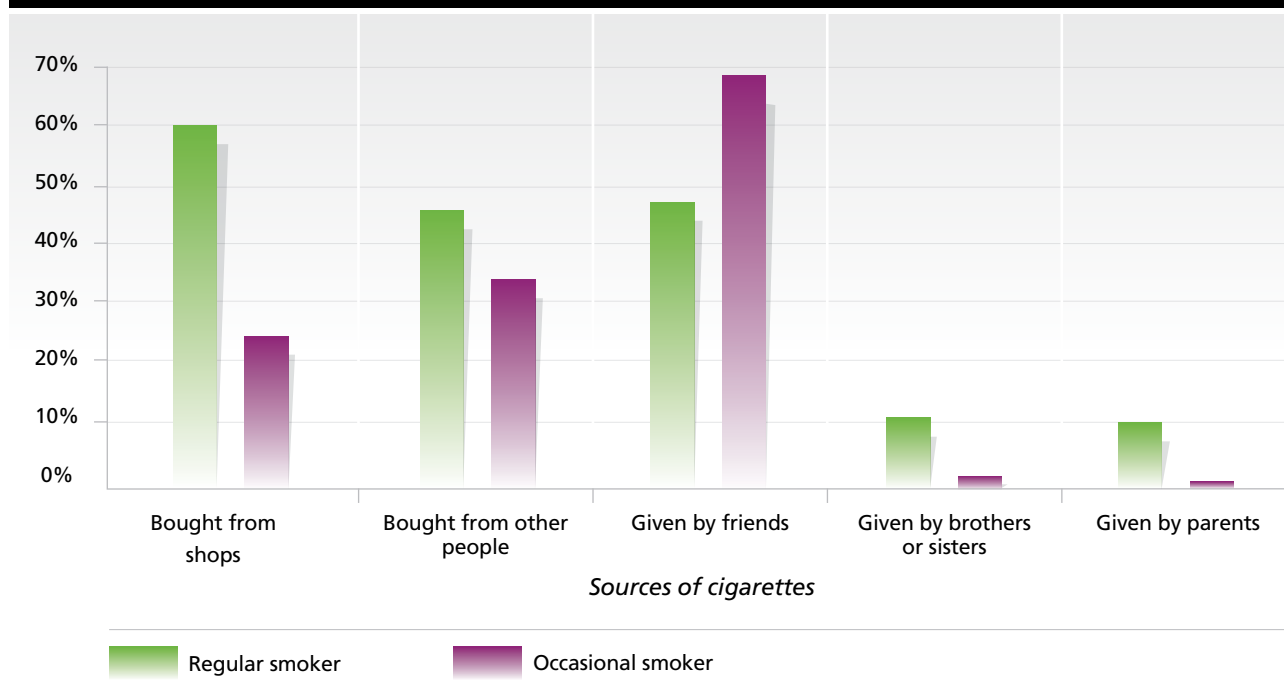
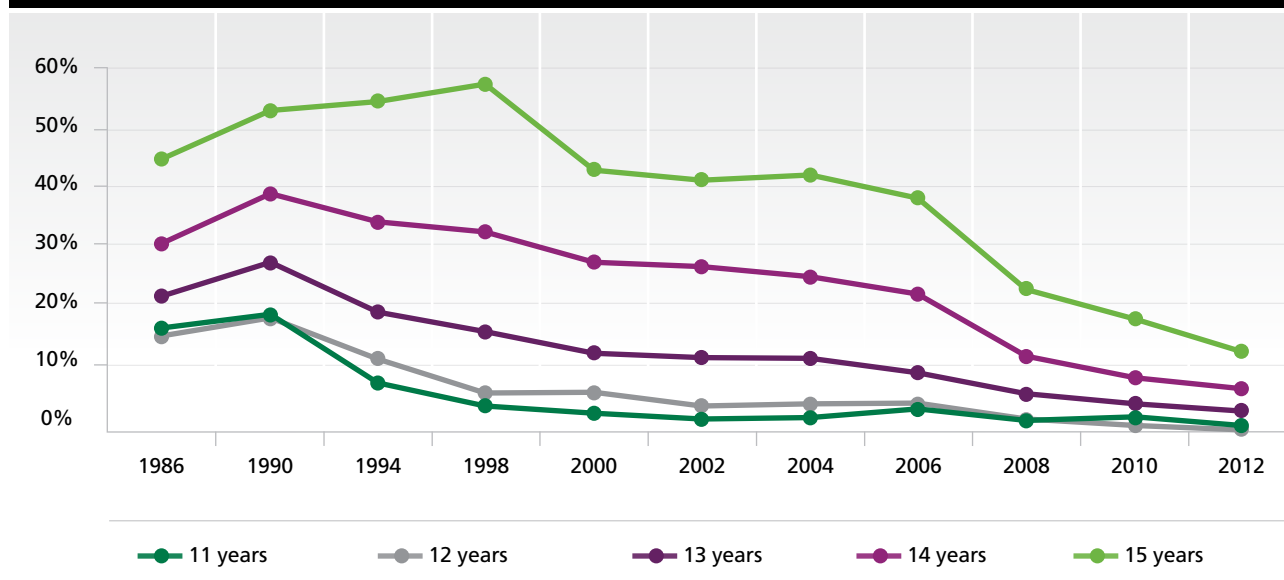


Figure 3: Whether pupils tried to buy cigarettes from a shop in the past year, by age: 1986-2012<sup>11</sup> *All pupils*



**Authors note:** A new report on “*Smoking, drinking and drug use among young people in England*” has now been published (July 2014) by the Health and Social Care Information Centre. Rates of smoking have reduced with the percentage of 15 years olds that reported smoking in the past week being 13 per cent and the overall percentage of young people (between 11 - 15 years) being six per cent .

<sup>10</sup> Source: *ibid*

<sup>11</sup> Source: *ibid*

## Findings

Eighty eight per cent of all councils conducted activities in relation to under-age sales. This was a significant decrease on the proportion of councils conducting activities in relation to under-age sales in 2012/13 (decreasing from 95 per cent).

### Complaints and enquiries received

Eighty four per cent of all councils had dealt with complaints and enquiries in relation to under-age sales at premises, receiving a total of 1,163 complaints and enquiries.

If this figure is used as an indication of the likely picture in non-responding councils, this would mean an estimated total of around 1,800 complaints and enquiries about under-age sales from retail premises would have been received in England in 2013/14.

### Visits by trading standards officers to premises

Seventy eight per cent of all councils had undertaken visits to premises with trading standards officers in relation to underage sales. This is a statistically significant decrease on the number of councils undertaking visits in relation to under-age sales in comparison to 2012/13 (when 89 per cent of councils undertook visits). In total 5,126 visits were undertaken by councils in 2013/14.

If this figure is used as an indication of the likely picture in non-responding councils, this would mean an estimated total of around 5,800 visits in relation to under-age sales from retail premises would have been made by trading standards officers in England in 2013/14.

### Visits by trading standard officers by premises type

Councils were asked to provide a breakdown of visits undertaken by trading standards officers by premises type<sup>12</sup>.

Analysis has only been conducted where councils undertook visits, and were able to provide an accurate breakdown across all premise types for visits by trading standards officers; 108 out of 115 councils were able to provide this detail.

In total 4,829 visits were undertaken by these councils, with the largest proportion of visits being undertaken at small retailers (36 per cent), followed by off-licences (29 per cent); the smallest proportion were undertaken at private homes (one per cent).

Table 4: Proportion of visits undertaken by trading standard officers by premise type

Type of premise	Visits undertaken (%)
Small retailer	36
Off licence	29
Independent newsagent	16
Large retailer	6
Pub/club	5
Petrol station kiosk	3
National newsagent	2
Market/car boot sale	2
Private homes	1
Other	1
<b>Base number of complaints and enquiries</b>	<b>4,829</b>
<b>Number of councils providing data</b>	<b>108</b>

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



### Conducting surveys of under-age sales with volunteer young persons

Seventy four per cent of all councils carried out visits to retail premises with volunteer young persons in test purchase operations of tobacco. There has been a significant decrease since 2012/13 in the number of councils carrying out visits to retail premises with volunteer young persons (from 92 per cent to 74 per cent of councils).

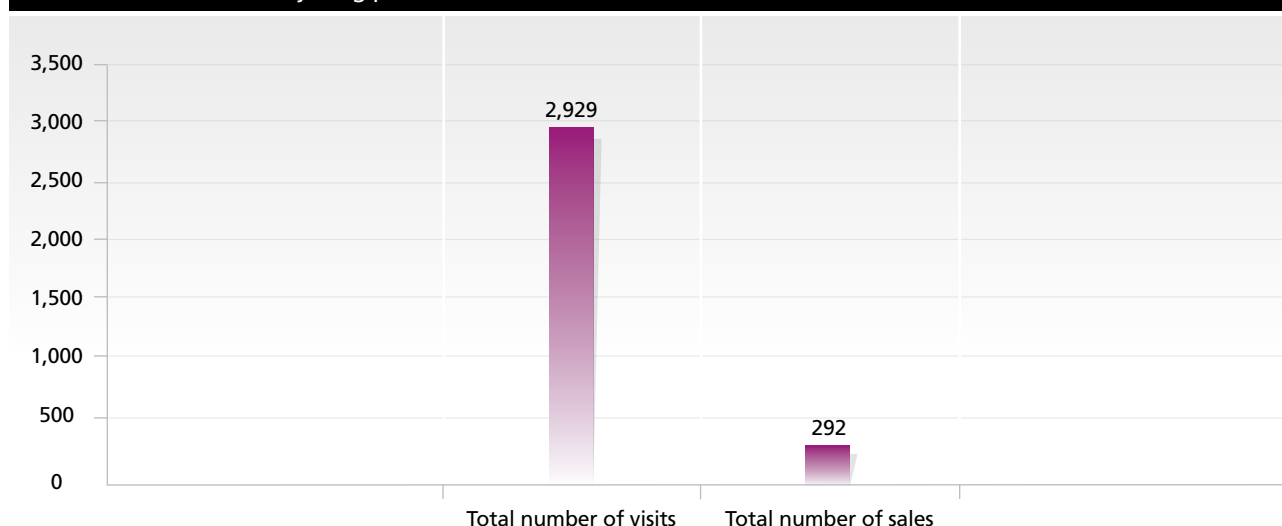
Of those conducting work around under-aged sales, fifteen per cent of councils were engaged in under-age sales activities, but not carrying out surveys with volunteer young persons in test purchase operations in premises. For these (twenty councils), the most frequently cited reason for this was a lack of intelligence (eight councils). The following reasons were stated by at least one council:

- Staff resource directed at other underage sales activities
- Financial resource was directed at other under-age sales activities
- Lack of staff resource overall
- Lack of financial resource overall
- Practical issues associated with compliance with the Better Regulation Delivery Office (BRDO) code<sup>13</sup>

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

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

**Figure 4: Number visited by volunteer young persons and number at which under-age sales of cigarettes were made to volunteer young persons**



**Base:** All councils conducting visits with young persons to premises who stated number (104); all councils conducting visits with young persons to premises who stated number (100)

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

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

### **Visits conducted**

One hundred and four out of 110 councils who had conducted visits to premises with volunteer young persons supplied the number of premises visited were able to provide data on the number of visits; this was a total of 2,929.

If this figure is used as an indication of the likely picture in non-responding councils, this would mean an estimated total of around 3,600 premises across England would have been visited by volunteer young persons conducting test purchases in 2013/14.

Matched sample analysis indicated there was a statistically significant decrease in the mean average number of visits by volunteer young persons from 37 in 2012/13 to 29 in 2013/14<sup>14</sup>.

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

One hundred and two out of 110 councils were able to report the number of visits with volunteer young people where sales had occurred. Of those able to provide detail, 75 per cent reported that cigarettes or tobacco products had been sold in at least one premises; cigarettes were sold to under-age young persons at a median of two premises and a total of 184 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 400 premises across England would have been detected making illegal sales of tobacco products to under-age young persons in 2013/14.

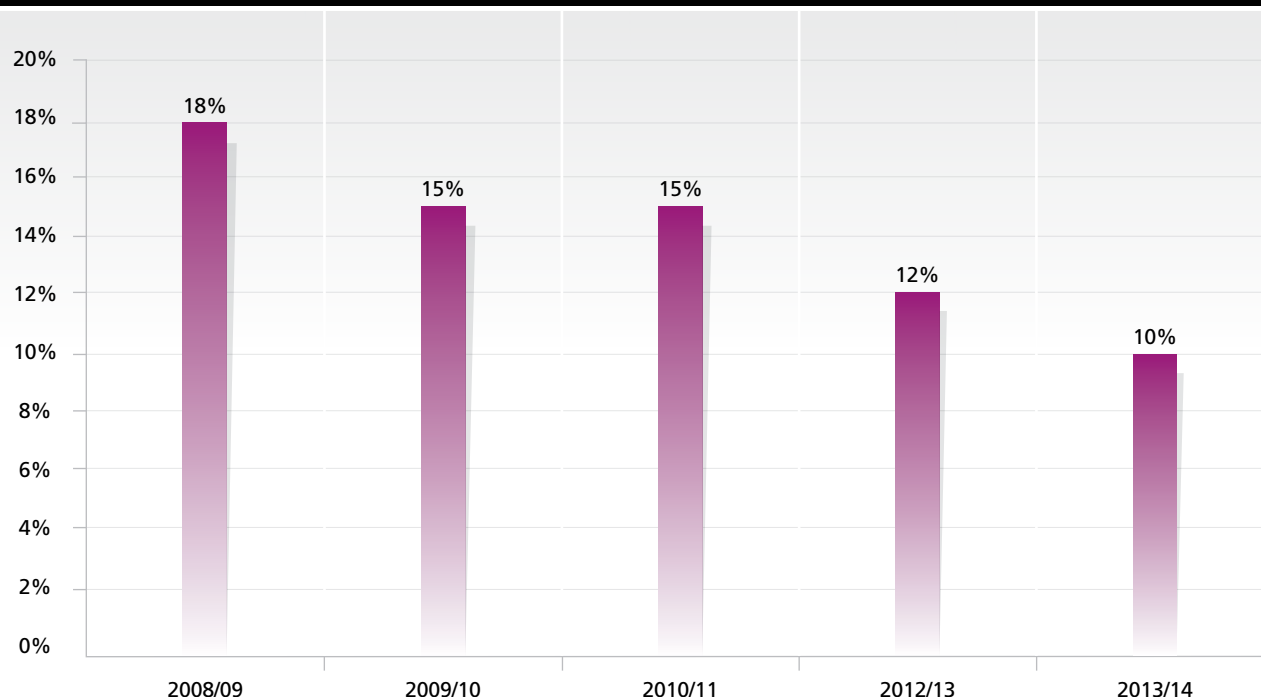
### **Proportion of visits to premises resulting in illegal sales**

One hundred councils provided data on both the number of premises visited and the number at which cigarettes were sold to under-age young persons. Illegal sales of cigarettes occurred in 10 per cent of test purchases at premises.

The sales rate has significantly decreased from a high of 18 per cent in 2008/09 to the current rate in 2013/14 of 10 per cent.

<sup>14</sup> A paired samples t test revealed a statistically reliable difference between the mean average number of visits by volunteer young persons in 2012/13 (mean = 37, standard deviation = 54.87) and 2013/14 (mean = 29, standard deviation = 36.93);  $t(100) = -2.01$ ,  $p < 0.5$ ).

**Figure 5: Percentage of visits to premises by volunteer young persons resulting in illegal sales, in 2008/09, 2009/10, 2010/11, 2012/13 and 2013/14**



**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)

### Types of premises

Councils were asked to provide a breakdown of the types of premises<sup>15</sup> visited with volunteer young persons and the number of premises where tobacco was sold.

Analysis has only been conducted where councils were able to provide an accurate breakdown across all premises for both visits and sales; 88 councils out of 110 were able to provide this detail.

For these councils, in total 2,294 visits were undertaken by volunteer young persons, with the largest proportion of visits being conducted at small retailers (40 per cent) and the fewest being undertaken at private homes and pubs and clubs (less than 0.5 per cent).

<sup>15</sup> For guidance on definitions of premises type please see annex 1

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

Type of premise	Visits undertaken (%)
Small retailer	40
Independent newsagent	24
Off licence	19
Large retailer	7
Petrol station kiosk	5
National newsagent	2
Market/car boot sale	>0.5
Pub/club	>0.5
Private homes	>0.5
Other	3
<b>Base number of visits</b>	<b>2,294</b>
<b>Number of councils providing data</b>	<b>88</b>

Although the largest proportion of visits resulting in under-age sales was from markets/car boot sales (50 per cent), only four visits were conducted to this type of premise. Similarly, no sales occurred at pubs/clubs and private homes; however only one visit was undertaken to each of these types of premises.

Where a greater number of visits were undertaken, petrol station kiosks had the greatest proportion of sales (15 per cent); national newsagents had the smallest proportion of sales (four per cent).

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

Type of premise	Number of sales	Number of visits undertaken	Percentage of sales (%)
Market/car boot sale	2	4	50
Petrol station kiosk	17	112	15
Independent newsagent	73	542	13
Small retailer	109	927	12
Off licence	31	437	7
Large retailer	11	172	6
National Newsagent	2	45	4
Pub/club	0	1	0
Private homes	0	1	0
Other	6	59	10
Number of councils providing data	88		

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

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

All councils who had undertaken visits in relation to under-age sales (74 per cent of all councils) were asked about actions taken as a result of under-age sales activity.

Of councils who had undertaken visits, 79 per cent stated that action had been taken by their council as a result of a breach to the Children's and Young Persons Act 1933 (as amended), between 1 April 2013 to 31 March 2014. This equates to 59 per cent of all councils.

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

Respondents who had taken action were asked to provide details of the types of actions that had been taken. Of those who had taken action, and could provide detail on actions taken (81 out of 87 councils), verbal or written warnings were the most common type of action to be taken by councils (74 per cent).

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

Type of action	Percentage taking action (%)	Median number per council (in councils taking action only)	Base
Verbal or written warnings	74	2	81
Simple cautions issued	44	2	81

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

Of the councils that had undertaken action (81 councils), 27 per cent had taken formal legal action. The median number of prosecutions was one per council, with 45 prosecutions in total.

Twenty one councils were able to provide detail on the outcomes of prosecutions. Twelve councils stated that one or more of their prosecution cases against a business had ended in a conviction (a total of 14 convictions, with a median average of one per council).

Ten councils provided detail on the number of convictions of individuals resulting from prosecution cases – with 20 convictions of individuals, and a median average of two convictions per council.

One council reported that one of their business convictions was of a repeat offender. None of the convictions of individuals were for repeat offenders.

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

Fifteen councils, out of the 17 who reported a conviction, stated that magistrates had imposed a fine as a result of one or more of these convictions.

All 15 councils could provide detail on the level of these fines. The majority of fines imposed were £500 or less (64 per cent), 28 per cent of fines imposed were of a value between £501 and £1,000, four per cent were of a value between £1,001 - £1,500 and four per cent reported fines of £1,501 - £2,000. Table 8 depicts the findings.

Significantly fewer fines of a value of up to £500 were issued in 2013-14, than in 2012-13 (when 86 per cent of fines were of a value of up to £500).

**Table 8: Level of fine, as a result of fine being imposed by the magistrate's court**

Level of fine	Percentage of fines
Up to £500	64
£501 - £1,000	28
£1,001 - £1,500	4
£1,501 - £2,000	4
£2,001 - £2,500	0
<b>Total number of fines</b>	<b>25</b>

**Base:** all authorities that knew the level of fines for some of their convictions (15)

#### Restricted sales and premises order

No restricted sales or premises orders were approved.

#### Alternative sanctions

Nineteen per cent of councils imposed 'alternative sanctions' for example mandatory attendance on a training course, with a median average of three per council and a total of 72.

## 6 Illicit tobacco products

Tobacco smuggling remains a significant threat both to UK tax revenues and to public health. HMRC estimates that in 2012-13, duty was not paid on around nine per cent of cigarettes and around 36 per cent of all hand-rolling tobacco smoked in the UK, with associated revenue losses of approximately £2 billion<sup>16</sup>. The availability of illicit tobacco products undermines efforts to reduce smoking prevalence by making it more affordable and accessible.

The Home Affairs Report first report on Tobacco Smuggling (2014) reiterates many of the points made in the previous strategy Tackling Tobacco Smuggling-building on our successes: A renewed strategy for HM Revenue and Customs and the UK Border Agency<sup>17</sup>. It concludes however that:

*"While there have been some high profile successes, over the last three years the numbers of prosecutions and convictions for organised crime cases involving tobacco have fallen. We do not believe that these numbers are decreasing due to the reduction in this type of crime and are deeply concerned that these figures may indicate a reduction in enforcement action".*

Whilst Council trading standards continue to work in partnership with HMRC and the UK Border Agency (UKBA) to tackle this problem the Home Affairs report makes it clear there is scope for improvement and particularly in the sharing of good practice between agencies.

The following data have been collected in consultation with HMRC; this represents an expanded collection providing greater detail relating to brands and price as requested by HMRC.

<sup>16</sup> Home Affairs First Report: Tobacco Smuggling (June 2014 ), <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmhaff/200/20003.htm> [Accessed online 23 June 2014]

<sup>17</sup> Tackling Tobacco Smuggling-building on our successes: A renewed strategy for HM Revenue and Customs and the UK Border Agency (2011)

## Findings

Ninety one per cent of all councils conducted activities in relation to illicit tobacco products<sup>18</sup>.

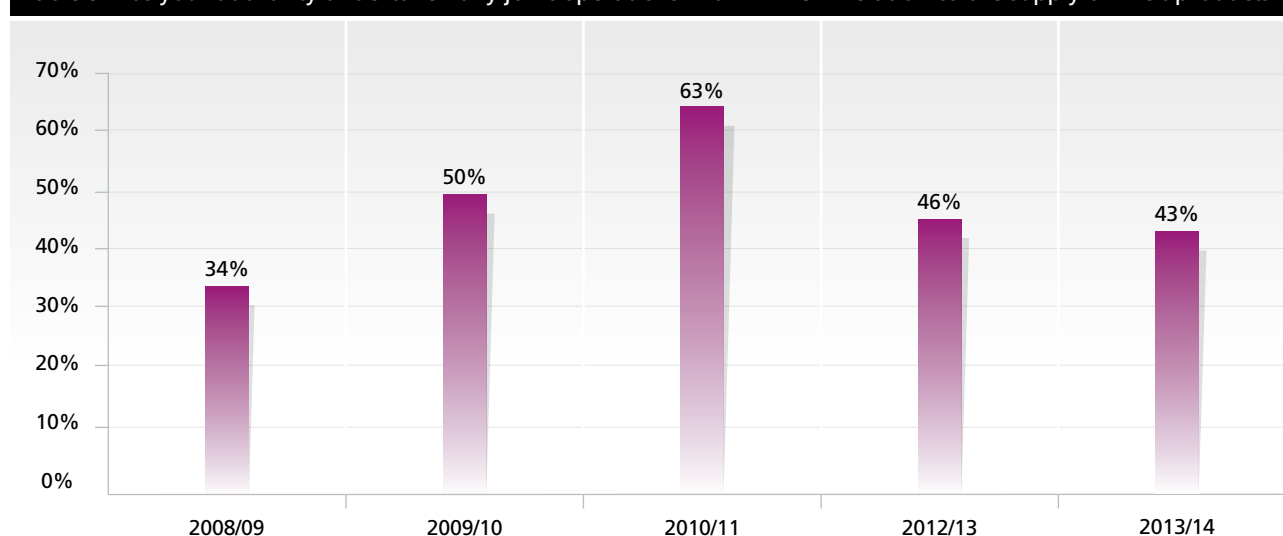
### Illicit tobacco product strategies

Seventy per cent 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

Forty three per cent of all councils had undertaken joint operations with HMRC as part of their activity in relation to illicit tobacco products.

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



**Base:** Year 2008/09 (101), Year 2009/10 (124), Year 2010/11 (131), Year 2012/13 (147), Year 2013/14 (148)

### Complaints and enquiries

Seventy eight per cent of all councils had dealt with complaints and enquiries in relation to the supply of illicit tobacco products.

In total 2,633 complaints and enquiries were received, with a median average of nine per authority. If this figure is used as an indication of the likely picture in non-responding councils, this would have meant an estimated total of around 3,000 complaints and enquiries about illicit tobacco products would have been received in England in 2013/14.

<sup>18</sup> Illicit tobacco is described as product that has not had the duty paid on it or it having been smuggled or illegally produced. It includes cigarettes and hand rolling tobacco etc. [Accessed online 8 July 2014] <http://webarchive.nationalarchives.gov.uk/+http://www.hmrc.gov.uk/news/tackling-tobacco.htm>



### Complaints and enquiries received by premises type

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

Analysis has only been conducted where councils undertook visits, and were able to provide an accurate breakdown across all premise types for visits by trading standards officers; 100 out of 115 councils were able to provide this detail.

In total 2,223 complaints and enquiries were received by these councils, with the largest proportion of complaints and enquiries being received about small retailers (40 per cent), followed by private homes (22 per cent); the smallest proportion were received about national newsagents, petrol station kiosks and large retailers (one per cent for each).

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

Type of premise	Complaints and enquiries received (%)
Small retailer	40
Private homes	22
Off licence	13
Independent newsagent	8
Pub/club	4
Market/car boot sale	2
Large retailer	1
Petrol station kiosk	1
National newsagent	1
Other	1
<b>Base number of complaints and enquiries</b>	<b>2,223</b>
<b>Number of councils providing data</b>	<b>100</b>

### Visits by trading standards officers

Eighty per cent of all councils had visited premises in relation to illicit tobacco products; a total of 3,794 visits were achieved. If this figure is used as an indication of the likely picture in non-responding councils, this would mean an estimated total of around 4,400 premises would have been visited across England in 2013/14 in relation to illicit tobacco products.

### Visits by trading standards officers by premises type

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

Analysis has only been conducted where councils undertook visits, and were able to provide an accurate breakdown across all premise types for visits by trading standards officers; 106 out of 115 councils were able to provide this detail.

In total 3,610 visits were undertaken by trading standards officers within these councils, with the largest proportion of visits being directed at small retailers (51 per cent), followed by off licences (19 per cent); the smallest proportion were undertaken at petrol station kiosks and large retailers (one per cent for each).

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

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

Type of premise	Visits undertaken (%)
Small retailer	51
Off licence	19
Independent newsagent	12
Private homes	4
National newsagent	3
Market/car boot sale	2
Pub/club	2
Petrol station kiosk	1
Large retailer	1
Other	7
<b>Base number of visits</b>	<b>3,610</b>
<b>Number of councils providing data</b>	<b>106</b>

### Seizure of illicit tobacco products

Thirty nine per cent of all councils undertaking work in relation to illicit tobacco products had seized illicit tobacco products.

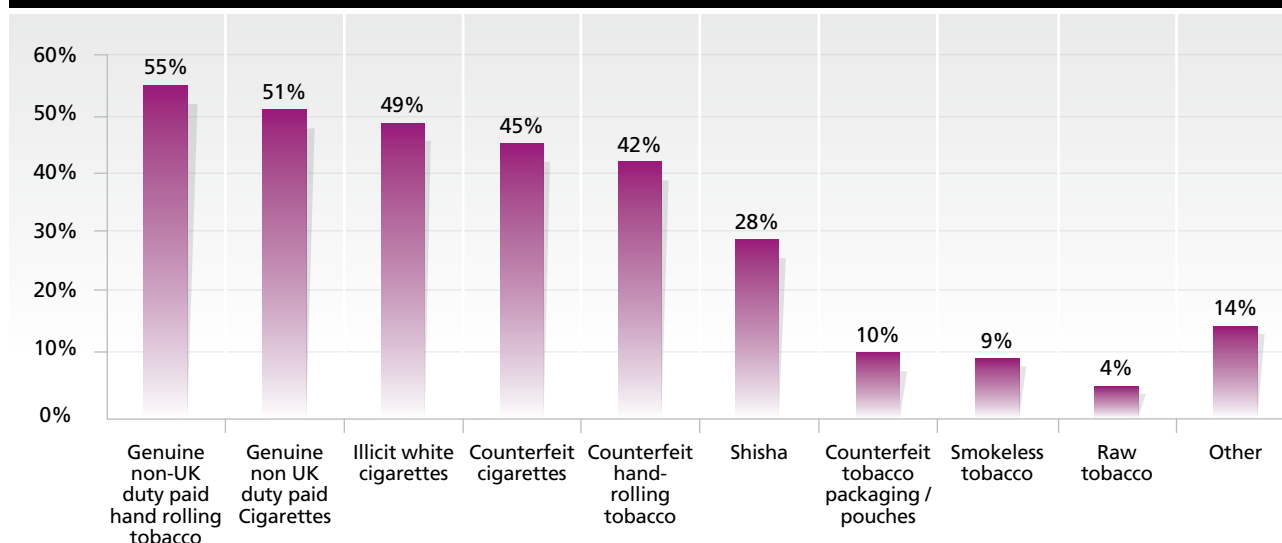
Of those who were able to provide detail on all types of illicit tobacco products seized (69 councils), the three most frequently seized illicit tobacco products were<sup>20</sup>:

- Genuine non-UK duty paid hand-rolling tobacco: seized by 55 per cent of councils, with a median average 13kg per council.
- Genuine non-UK duty paid cigarettes: seized by 51 per cent of councils, with a median average of 4,400 sticks per council.
- Illicit white cigarettes: seized by 49 per cent of councils, with a median average of 3,100 sticks per council.

Seized by the smallest proportion of councils was raw tobacco (by four per cent, with a median average of 7kg per council).

<sup>20</sup> Amounts presented below related to the total amounts seized by councils

Figure 6: Percentage of councils seizing illicit tobacco, by type of product



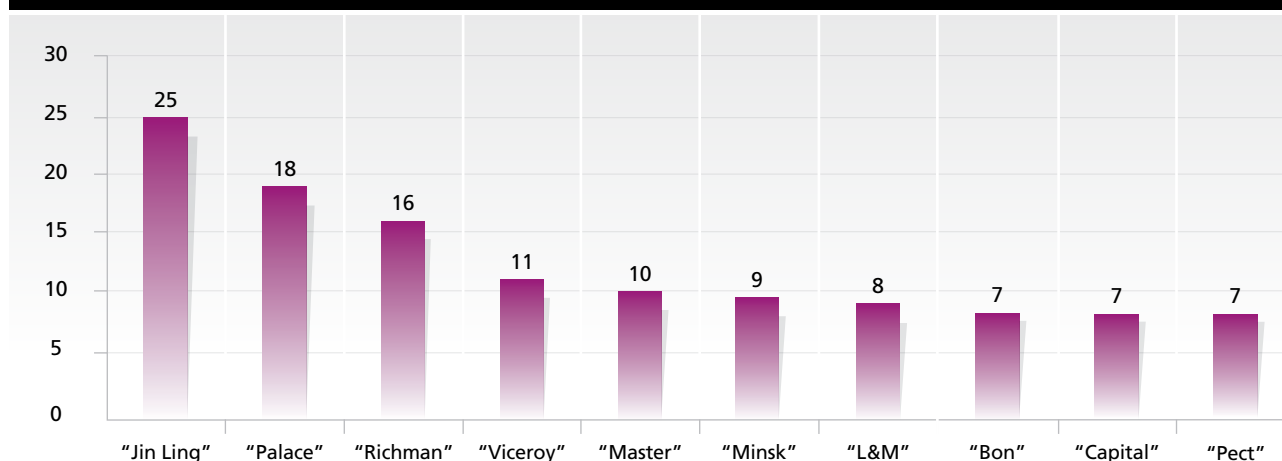
**Base:** all councils that provided detail on illicit tobacco products seized (69)

#### Illicit white cigarette brands

Of the 37 councils who stated that they had seized illicit white cigarettes, the three brands that were most frequently reported being seized were:

- Jin Ling (25 councils);
- Palace (18 councils);
- Richman (16 councils).

Palace was not an option on the list provided to councils, but was stated by 18 councils within the 'other' category; it was therefore backcoded. Additional illicit white brands frequently mentioned in the 'other' category included: "Viceroy" (11 councils), "Minsk" (nine councils) and "L&M" (eight councils).

Figure 7: Top ten illicit white brands seized by councils<sup>21</sup>

**Base:** all councils who reported seizing illicit white cigarettes (37)

<sup>21</sup> Please note this relates to those illicit white cigarettes most frequently selected or stated under the category 'other'.

### Illicit cigarettes seizures: average intended sales price

All respondents who reported seizures of non-UK duty paid cigarettes, illicit white cigarettes and counterfeit cigarettes were asked to select the average intended sale price of the cigarettes seized.

Two fifths of councils (40 per cent) reported that the average intended sales price was £3.01 to £4.00, with just under a quarter (22 per cent) reporting the average intended sales prices was £4.01 to £5.00.

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

A quarter of respondents did not know the average intended sales price of the seized cigarettes.

**Figure 8: On average, what was the intended sales price for illicit cigarettes seized between the 1st April 2013 and 31st March 2014?**



**Base:** all councils that reported seizing illicit white cigarettes, non-UK duty paid cigarettes or counterfeit cigarettes (55)

### Illicit cigarette seizures: countries of origin

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

The two countries most frequently mentioned were Poland (30 councils) and Russia (16 councils).

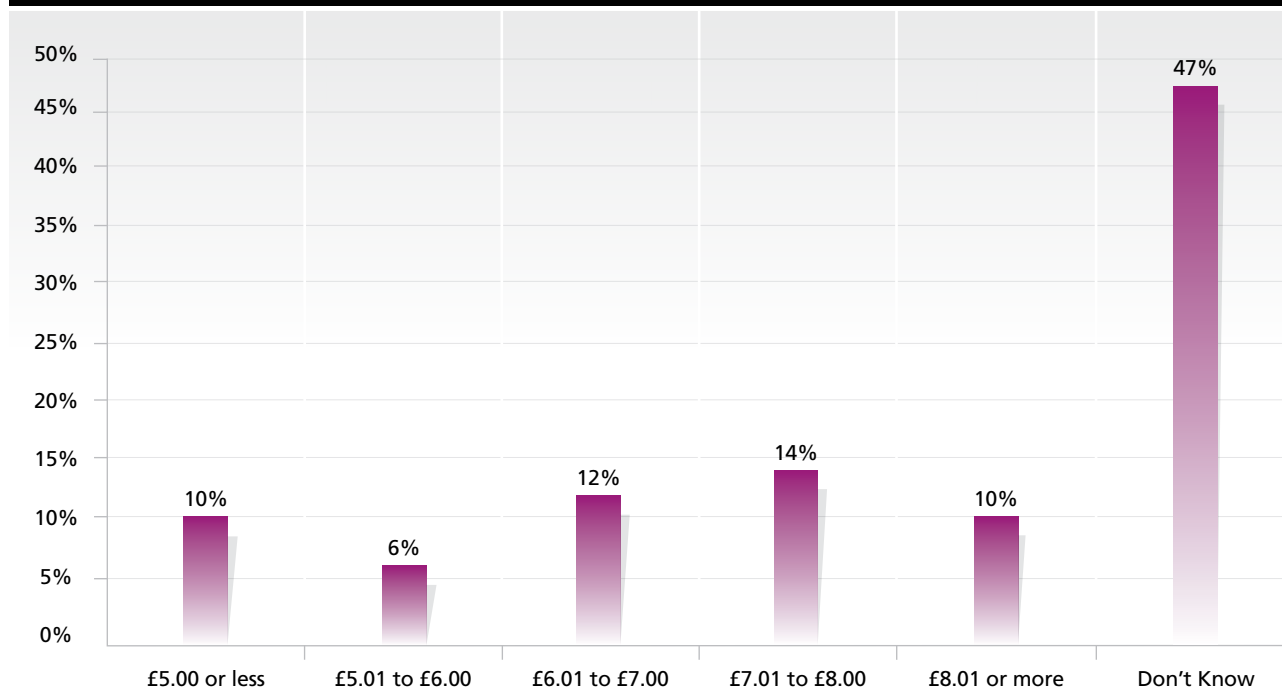
### Illicit hand rolling tobacco seizures: average intended sales price

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

Nearly half of councils (47 per cent) did not know the average intended sales price of the seized hand rolling tobacco. Of the remaining councils, the greatest proportion (14 per cent) selected £7.01 to £8.00 followed by 12 per cent selecting £6.01 to £7.00.

The smallest proportion of councils (six per cent) reported that the average intended sales price was £5.01 to £6.00.

**Figure 9: On average, what was the intended sales price for illicit hand-rolling tobacco seized between the 1st April 2013 and 31st March 2014?**



**Base:** all councils that reported seizing non-UK duty hand rolling tobacco or counterfeit hand rolling tobacco (49)

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

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

The two countries most frequently mentioned were Poland (14 councils) and Belgium (12 councils). Other frequently mentioned countries included China and Spain (both mentioned by seven councils respectively).

#### Actions taken in relation to illicit tobacco products

All councils who had undertaken visits in relation to illicit tobacco products (117 councils) were asked details about what, if any, types of actions had been undertaken.

Ninety five councils could provide detail on actions taken; written or verbal warnings were the most common type of action to be taken by councils (59 per cent), followed by 29 per cent issuing simple cautions.

Table 12: In relation to all illicit tobacco product activity, how many of the following actions did you take?

Type of action	Percentage taking action (%)	Median number per council (in councils taking action only)	Base
Verbal or written warnings	59	2	104
Simple cautions issued	29	2	104

### Prosecutions relating to illicit tobacco products

Of the councils that had provided detail on the number of actions taken (95), 47 per cent had taken formal legal action. The median number of prosecutions was two per council, with 169 prosecutions in total.

Matched sample analysis indicated there was a statistically significant increase in the mean average number of prosecutions relating to illicit tobacco products from just over one in 2012/13 to just under two in 2013/14<sup>22</sup>.

Fifteen out of 45 councils stated that one of their prosecutions ended in a business conviction by 31 March 2014 (a total of 31 convictions, with a median average of one conviction per council). Six councils reported that they convicted repeat offenders, with a total of eight repeat offenders being convicted.

Twenty six out of 45 councils stated that one of their prosecutions ended in a conviction of an individual by 31 March 2014 (a total of 68 convictions, with a median average of two convictions per council). Five councils reported that they convicted repeat offenders, with a total of eight repeat offenders being convicted.

## 7 Advertising and the display of tobacco products

In December 2012, the TSI published a report *The display of tobacco products: a rapid review of compliance in business premises*<sup>23</sup>. The report detailed the findings of a study into the compliance of 217 business premises carried out by trading standards services across England. There has been no subsequent study of this scale undertaken.

The next phase of the Tobacco Advertising and Promotion (Display) Regulations 2010<sup>24</sup> will be implemented in 2015. Since April 2012, these regulations have sought to control tobacco displays in large shops and cash and carry premises.

From 6 April 2015 all other shops will be similarly required to comply and it will become illegal to display tobacco products except in the limited circumstances in all retail premises.

## Findings

Thirty four per cent of all councils had undertaken tobacco control activities in relation to tobacco advertising. This was a significant decrease on the proportion of councils conducting activities in relation to tobacco advertising in 2012/13 (decreasing from 70 per cent).

<sup>22</sup> A paired samples t test revealed a statistically reliable difference between the mean average number of cautions issued in 2012/13 (mean = 1, standard deviation = 2.34) and 2013/14 (mean = 2, standard deviation = 3.56);  $t(80) = 1.93$ ,  $p < 0.5$ .

<sup>23</sup> <http://www.tradingstandards.gov.uk/policy/Improvingthehealthofsociety.cfm> [accessed 18 August 2014]

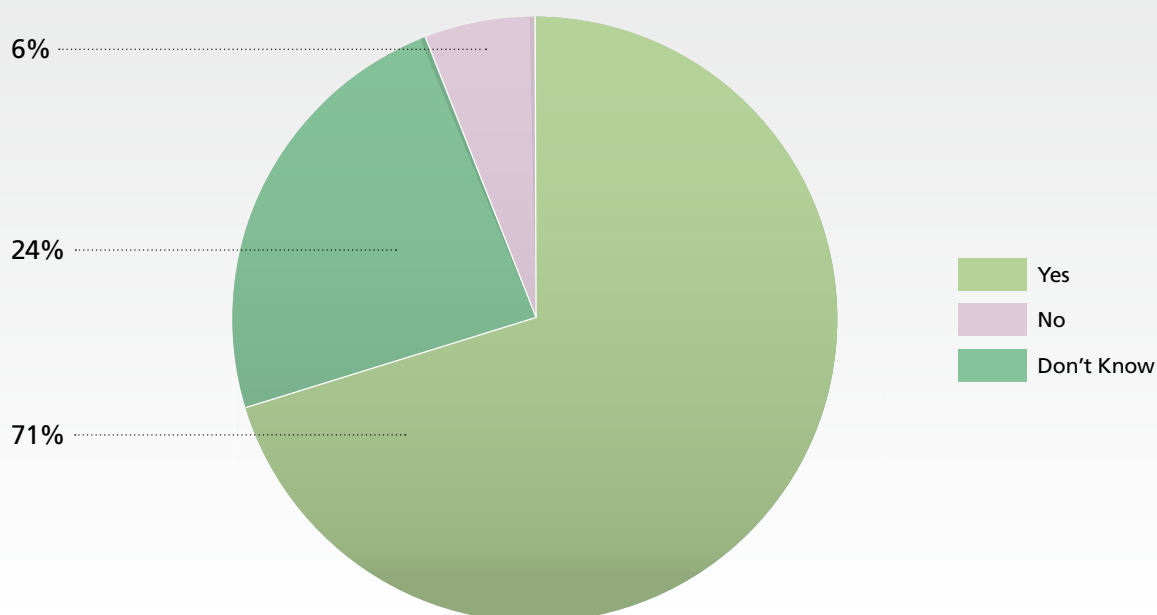
<sup>24</sup> <http://www.legislation.gov.uk/uksi/2010/445/contents/made> [accessed on line 7 July 2014]

### Compliance visits

Seventy one per cent of those undertaking work in relation to advertising and the display of tobacco products had carried out compliance visits at large retail premises. Twenty four per cent had not, and six per cent did not know.

This is a significant decrease on the 88 per cent of councils who carried out compliance visits at large retail premises in 2012/13.

Figure 10: Did your authority carry out compliance visits at large retail premises?



**Base:** All councils undertaking tobacco control activities in relation to advertising and the display of tobacco control products (51)

Thirty three out of the 36 councils who had carried out compliance visits at large retail premises were able to provide detail of the outcome in relation to display requirements; 30 councils out of 36 councils were able to provide detail on the outcome in relation to pricing requirements.

- Of 358 visits by councils in relation to display requirements, 97 per cent reported compliance with display requirements.
- Of 206 visits by councils in relation to pricing requirements, 70 per cent reported compliance with pricing requirements.

Significantly more visits in relation to display requirements were compliant, than visits in relation to pricing requirements.



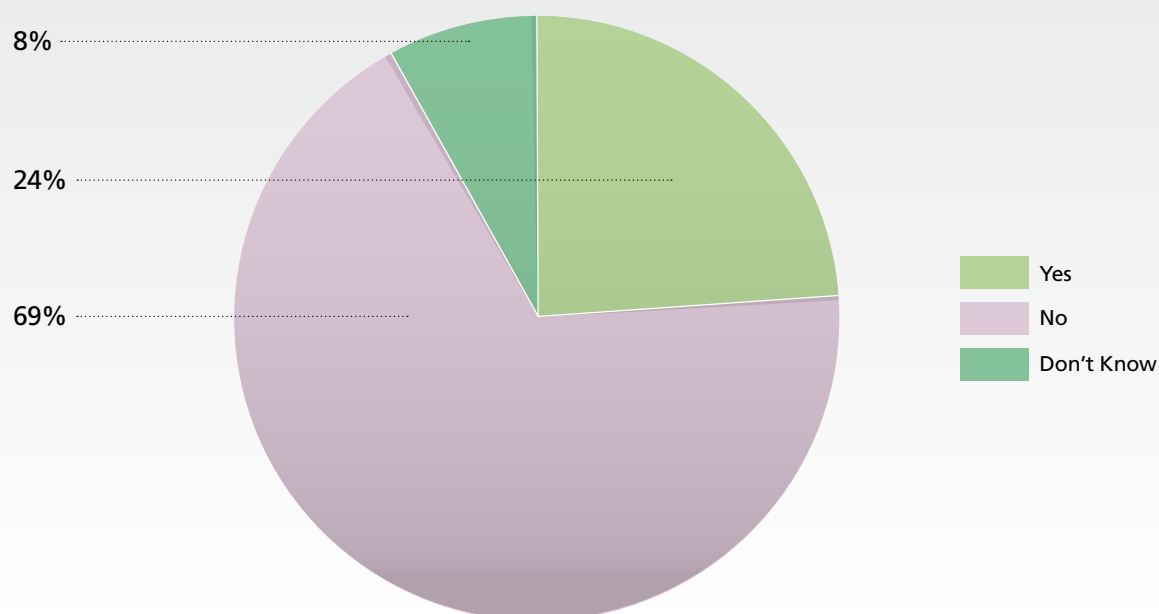
Table 13: Please provide the number of visits to large retail premises with each of the following outcomes

Outcome	Proportion of visits	Median number per council (in councils taking action only)	Total number of visits
Compliance with display requirements	97	6	358
Compliance with pricing compliance	70	5	206

Just under a quarter of councils (24 per cent) undertaking work in relation to the advertising and display of tobacco products carried out compliance visits at wholesale/cash and carry businesses. Sixty nine per cent of councils did not, and eight per cent did not know.

This is a significant decrease on the 45 per cent of councils who carried out compliance visits at large retail premises in 2012/13.

Figure 11: Did your authority carry out compliance visits at wholesale/cash and carry type businesses?



**Base:** All councils undertaking tobacco control activities in relation to advertising and the display of tobacco control products (51)

All 12 councils who 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 in relation to pricing requirements.

- Twenty five of the 31 visits by councils in relation to display requirements reported compliance with display requirements.
- Twenty three of the 29 visits by councils in relation to pricing requirements, reported compliance with pricing requirements.

**Table 14: 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	25	2	31
Compliance with pricing compliance	23	2	29

## 8 Niche tobacco products

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

Shisha smoking – also called hookah, narghile, waterpipe, or hubble bubble smoking – is a way of smoking tobacco, sometimes mixed with fruit or molasses sugar, through a bowl and hose or tube<sup>25</sup>.

Oral smokeless tobacco products are placed in the mouth, cheek or lip and sucked (dipped) or chewed and are frequently mixed with other ingredients, including areca nut and slaked lime, within a betel leaf. Tobacco pastes or powders are used in a similar manner and placed on the gums or teeth. Fine tobacco powder mixtures are usually inhaled and absorbed in the nasal passages.

There is sufficient evidence that the use of smokeless tobacco causes cancer in humans; smokeless tobacco contains carcinogens, which contribute to cancers of the oral cavity and the risk of other head and neck cancers. Smokeless tobacco use also causes a number of noncancerous oral conditions and can lead to nicotine addiction similar to that produced by cigarette smoking<sup>26</sup>.

Shisha smokers are at risk of the same kinds of diseases as cigarette smokers, such as heart disease, cancer and respiratory disease.

<sup>25</sup> British Heart Foundation available at <http://www.bhf.org.uk/heart-health/prevention/smoking/shisha.aspx> [ accessed on line 7th July 2014]

<sup>26</sup> Niche Tobacco Products Directory. 2009. Niche Tobacco Products Directory. [online] Available at: <http://www.ntpd.org.uk/> [Accessed: 7th July 2014].

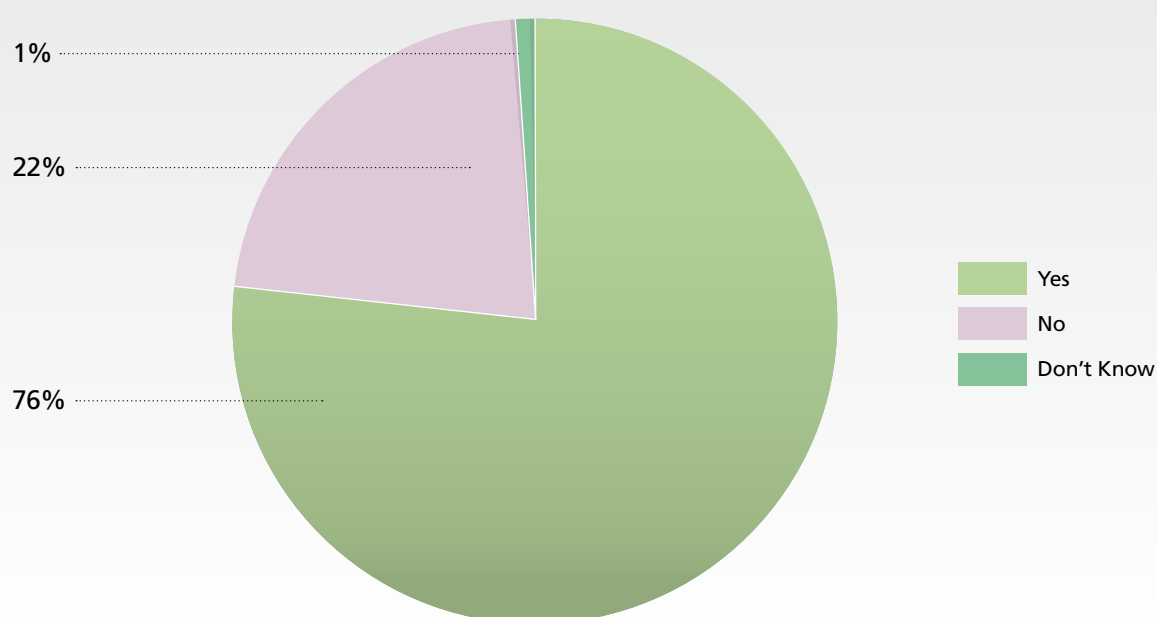
## Findings

Forty five per cent of all councils had undertaken tobacco control activities in relation to niche tobacco products<sup>27</sup>.

### Labelling of products

Seventy six per cent of councils undertaking work on niche tobacco products stated that they had detected niche tobacco products without appropriate labelling (health warnings) between 1 April 2013 and 31 March 2014.

Figure 12: Did your council detect any niche tobacco products without appropriate labelling (health warnings) between 1 April 2013 and 31 March 2014?



**Base:** All councils who had undertaken tobacco control activities in relation to niche tobacco products (68)

### Types of niche tobacco products found

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

Of those able to provide detail across each tobacco product (42 councils) most frequently councils reported that they detected blunts (64 per cent), followed by 55 per cent detecting shisha and 36 per cent smokeless tobacco.

On average where products were found a median of 55 blunts were detected, nine kilograms of shisha and 18 kilograms of smokeless tobacco.

<sup>27</sup> Niche tobacco products include smokeless and chewing tobacco, shisha, tobacco blunts and other tobacco products that are not cigarettes, cigars or hand rolling tobacco.

Table 15: Percentage detecting niche tobacco and median average amount of niche tobacco found

Type	Percentage detecting niche tobacco (%)	Amount (median average) niche tobacco found (those who detected)	Base (those who detected niche tobacco)
Blunts	64	55 blunts	27
Shisha	55	9kg	23
Smokeless tobacco	36	18kg	15

### Actions taken in relation to niche tobacco products

Of those who had detected niche tobacco products (50 councils), and could provide detail on actions taken (46 councils), written or verbal warnings were the most common type of action to be taken by councils (72 per cent), followed by eight per cent that had issued simple cautions.

Table 16: In relation to all niche tobacco products, how many of the following actions did you take?

Type of action	Percentage taking action (%)	Median number per council (in councils taking action only)	Base
Verbal and written warnings	72	3	46
Simple cautions issued	8	1	46

### Prosecutions relating to niche tobacco products

Of the councils that had provided detail on the number of actions taken (46), 20 per cent had taken formal legal action. The median number of prosecutions was two per council, with 25 prosecutions in total.

Seven councils stated that prosecutions had ended in a conviction, with seven business and 14 convictions of individuals. One council reported that they had repeat convictions for one business and one individual.

## 9 Collaborative working

The transition of public health from NHS to Local Authorities between 2012-13 has not been without some difficulty. A report by the Royal Society for Public Health<sup>28</sup> highlights that the public health workforce within local authorities in England are continuing to settle into their new roles. The report found that:

*“While for some teams with a history of working closely with the local authority this transition has been relatively painless, for others, this has been a time of far reaching cultural and systems change”.*

In addition, the report also noted that there are concerns about how finances will be allocated for public health work where councils face further budget restrictions year on year.

This survey asks specifically about collaboration in comprehensive tobacco control post transition.

<sup>28</sup> Royal Society of Public Health, *The views of public health teams working in Local Authorities Year 1, 2014* [accessed online 19 August 2014] <http://www.rsph.org.uk/en/about-us/latest-news/press-releases/press-release1.cfm/pid/7FF924DD-F16E-4F10-A12080B7FB928207>

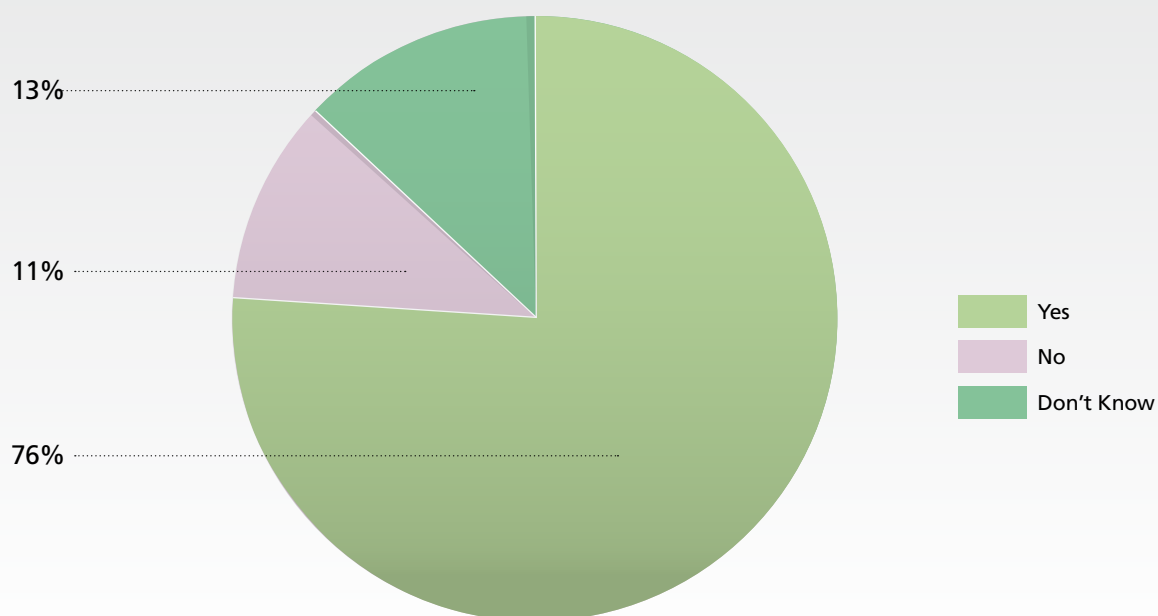
## Findings

Seventy nine per cent of all councils had undertaken tobacco control activities in collaboration with other agencies.

### Local tobacco control activities

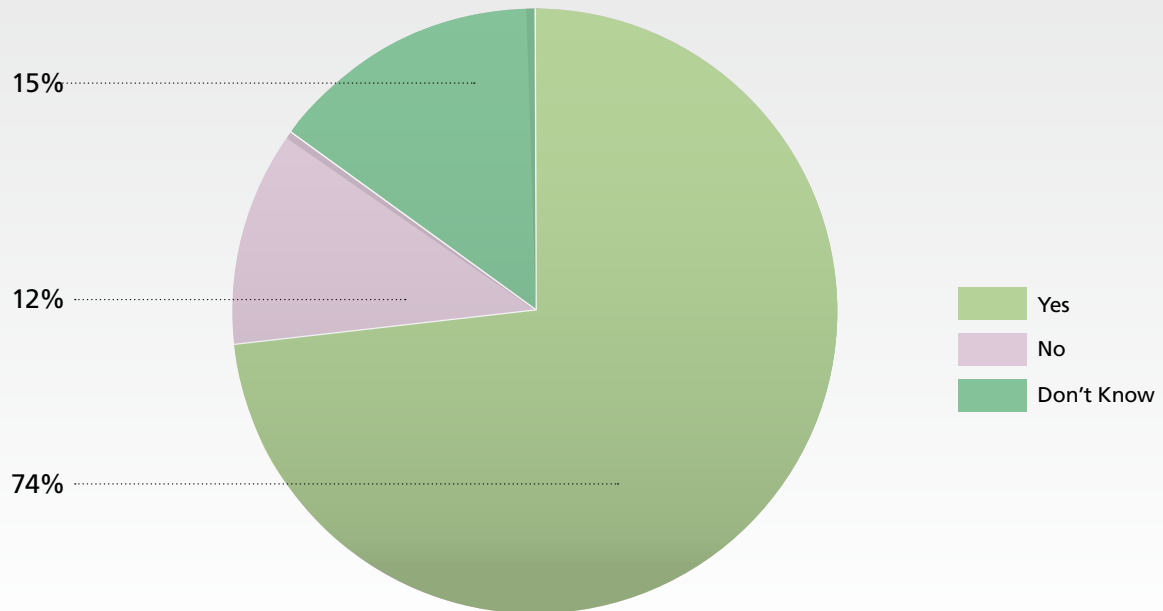
Seventy six per cent of councils working in collaboration stated that there was a local tobacco control or smoke free alliance in their local authority area in 2013-2014, with 11 per cent stating that there was not and 13 per cent stating they did not know.

Figure 13: Was there a local tobacco control or smoke free alliance in your local authority area in the 2013-2014 financial year (1st April 2013 - 31st March 2014)?



**Base:** All councils undertaking partnership working (117)

Figure 14: Did your council work from a current Tobacco Control Strategy in the 2013-2014 financial year (1st April 2013 - 31st March 2014)?



**Base:** All councils undertaking partnership working (117)

Seventy four per cent of councils reported that they had worked from a current Tobacco Control Strategy in 2013-2014, 12 per cent of respondents had not and 15 per cent of respondents did not know.

### Working in partnership on tobacco control activities

Seventy eight per cent of all councils were conducting work in partnership on their tobacco control activities.

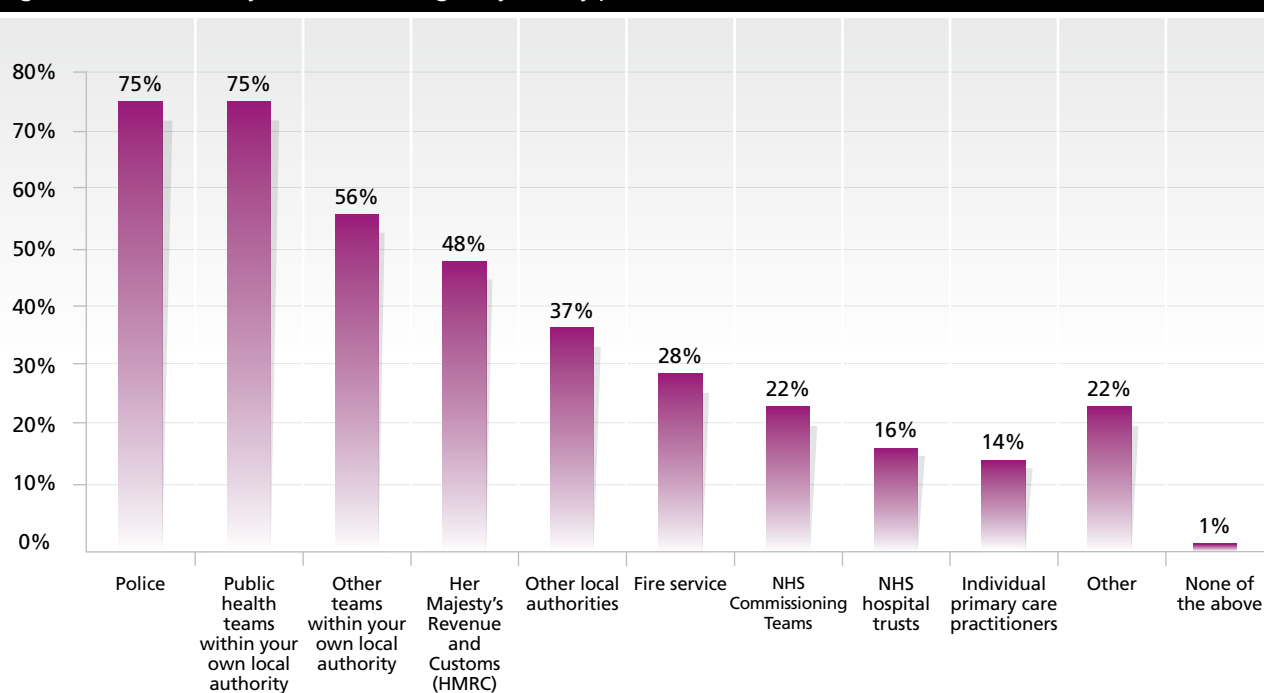
Of those working in partnership (117 councils), the greatest proportion were working with public health teams within their local authority and the police (75 per cent for both), followed by other teams within their own local authority (56 per cent).

Fewest councils were working with individual primary care practitioners (14 per cent).

Twenty two per cent of councils were working with 'other' types of service providers which included:

- regional tobacco alliances
- education providers (schools, colleges and universities)
- Public Health England
- Tobacco product brand holders

Figure 15: Which, if any, of the following are your key partners?



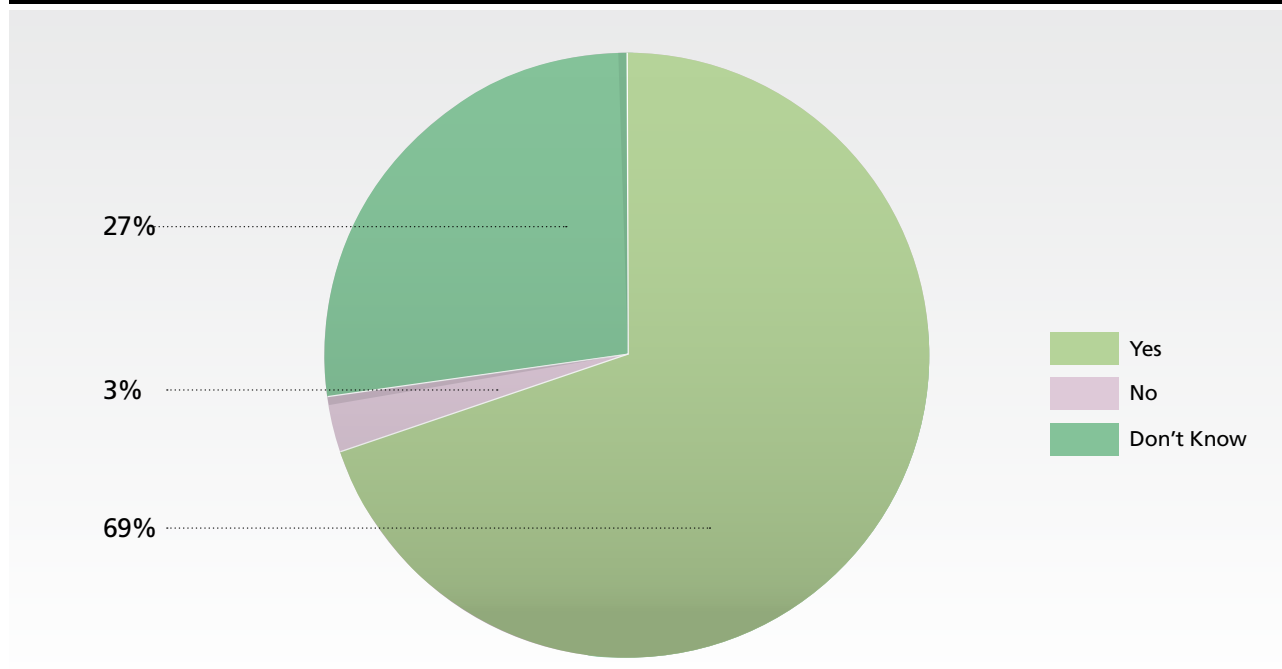
Base: All councils undertaking partnership working (117)



Sixty nine per cent of councils working in collaboration stated that tobacco control was included in their health and wellbeing strategy, with three per cent stating it was not and 27 per cent stating that they did not know.

This is a significant decrease on the 87 per cent of councils who stated that tobacco control was included in their health and wellbeing strategy in 2012/13.

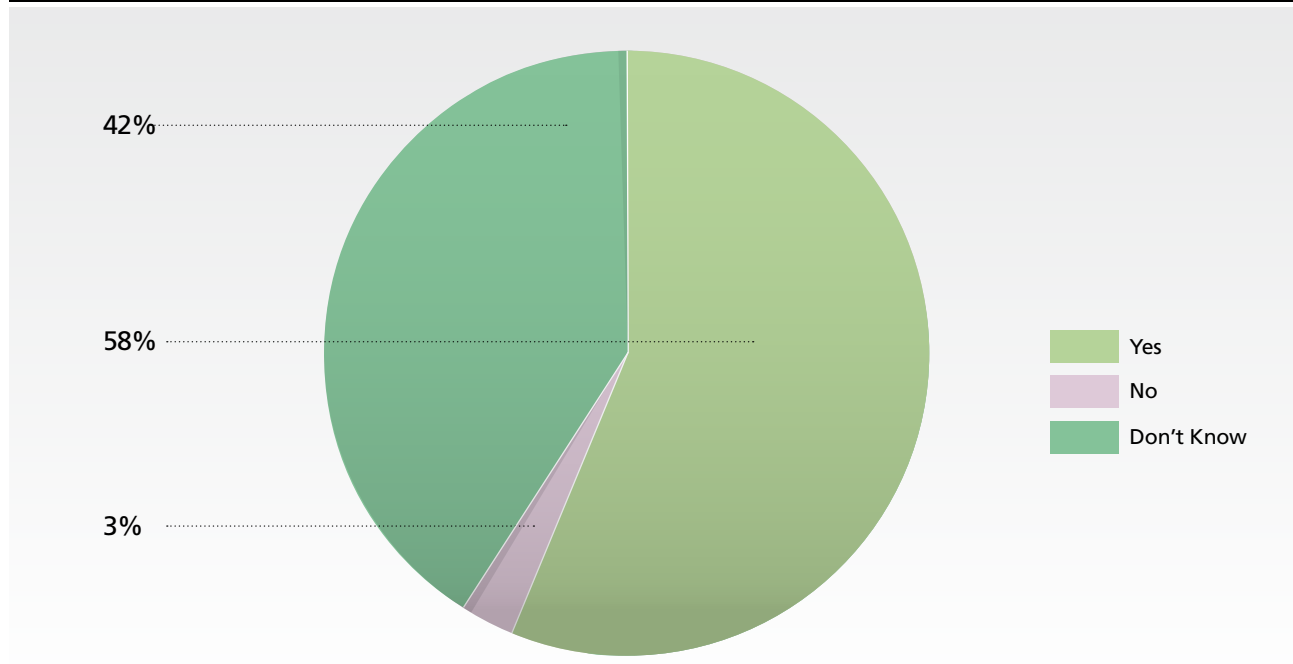
**Figure 16: Was tobacco control included in the Health and Wellbeing strategy for your authority in the 2013-2014 financial year (1st April 2013-31st March 2014)?**



**Base:** All councils undertaking collaborative working (117)

Fifty eight per cent of councils working in collaboration stated that tobacco control was included in their joint strategic needs assessment, with three per cent stating it was not and 42 per cent stating that they did not know.

Figure 17: Was tobacco control included in the Joint Strategic Needs Assessment for your authority in the 2013-2014 financial year (1st April 2013-31st March 2014)?

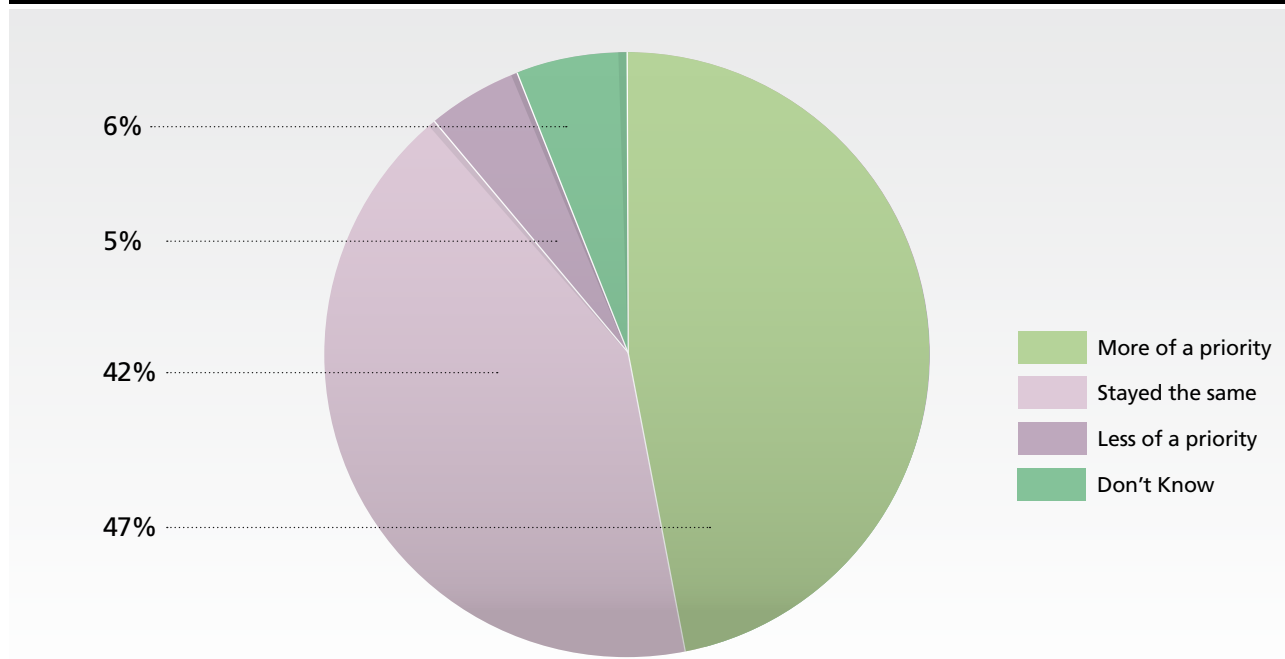


**Base:** All councils undertaking collaborative working (117)

In 2013 the NHS underwent a transition which brought public health teams back into local authorities. All councils working in collaboration were asked whether since the transition tobacco control had become more of a priority, less of a priority or stayed the same.

Forty seven per cent stated it had become more of a priority, with 42 per cent stating it had remained at the same priority level, whilst five per cent thought it was less of a priority and six per cent did not know.

**Figure 18: Since this transition, in your opinion, do you feel that tobacco control has become more of a priority, less of a priority or stayed the same?**

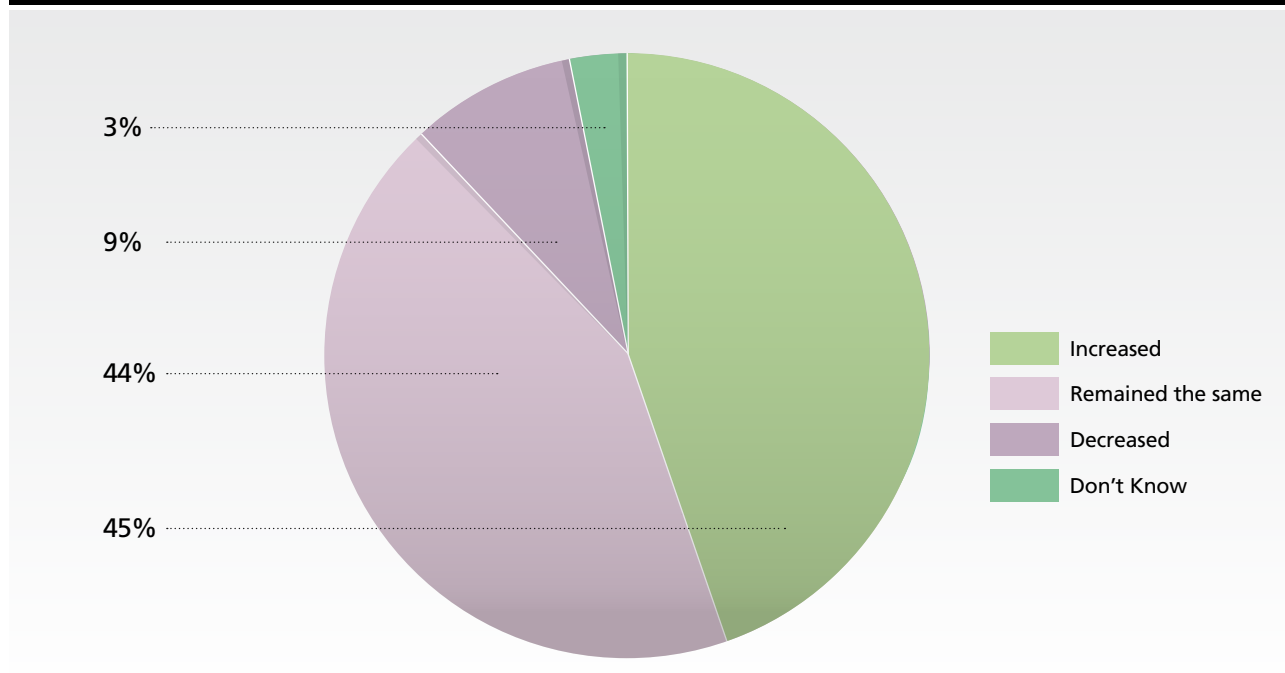


**Base:** All councils undertaking collaborative working (117)

All councils working in collaboration were asked whether since the transition collaboration around tobacco control in their local area had increased, decreased or remained the same.

Forty five per cent thought collaboration had increased, with 44 per cent stating it had remained the same. Nine per cent thought collaboration had decreased whilst six per cent did not know.

**Figure 19: Since this transition, in your opinion, do you feel that collaboration in your local area about tobacco control has increased, decrease or remained the same?**



**Base:** All councils undertaking collaborative working (117)

## 10 Electronic cigarettes (also known as Vaporisers)

Electronic cigarettes are primarily used by current and former smokers; data released in June 2014 demonstrates that in Britain the current prevalence of use is around 18 per cent<sup>29</sup>. In England, the prevalence of electronic cigarette use among 'never smokers' aged 16 and above is currently less than 0.5 per cent<sup>30</sup>.

There are a wide variety of electronic cigarettes currently available ranging from disposable products most of which closely resemble cigarettes, to rechargeable products that bear no resemblance to cigarettes at all.



A recent study conducted by TSI on behalf of PHE "*Youth access to e-cigarettes and associated products*"<sup>31</sup> found that products were available from a wide range of businesses, including mobile phone businesses, market stall, pharmacies and supermarkets.

The price of these products was also found to be variable; from as little as 99p in discount stores up to £20 for the more sophisticated products.

Electronic cigarettes are currently regulated as consumer products, however, this situation will change in 2016 when the European Union Tobacco Products Directive (TPD) comes into effect in Member States. From this point, electronic cigarettes containing up to 20mg/ml of nicotine will be regulated under the TPD.

Any e-cigarette manufacturer that wishes to market their product as a harm reduction or smoking cessation aid must apply for the product to be regulated as a medicine by the Medicines and Healthcare Products Regulatory Agency (MHRA). An e-cigarette that is licenced as a medicine, such as a nicotine replacement therapy, could be made available to children under the age of 18 but only under medical supervision e.g. by way of prescription.

There have been several reports in the national press about the safety of electronic cigarettes; investigations post incident have revealed some problems with devices overheating whilst on charge<sup>32</sup>. In other reports, some users have been severely injured whilst using their e cigarette in proximity to oxygen supplies<sup>33</sup>.

The following data gives an indication of the range of issues that have been dealt with by trading standards services in the past year.

<sup>29</sup> West R, Hajek P, McNeill A, Brown J, Arnott D (2014) Electronic cigarettes: what we know so far. A report to UK All Party Parliamentary Groups. [www.smokinginengland.info/reports/](http://www.smokinginengland.info/reports/) [accessed online 7th July 2014]

<sup>30</sup> ASH (2014) Briefing on Electronic Cigarettes. May 2014.

<sup>31</sup> MacGregor J. (2014) "*Youth Access to E Cigarettes and Associated Products*" <https://www.gov.uk/government/news/report-finds-some-retailers-ignoring-age-of-sale-warnings-on-e-cigarettes> [accessed on line 7 July 2014]

<sup>32</sup> <http://www.dailymail.co.uk/news/article-2605256/Now-e-cigarette-explodes-starts-flat-fire-leaving-one-woman-hospital-device-overheated-charging.html> [accessed on line 23 June 2014]

<sup>33</sup> <http://www.dailymail.co.uk/news/article-2603975/OAP-engulfed-flames-seriously-burned-e-cigarette-ignites-oxygen-Manchester-hospital.html> [accessed on line 23 June 2014]

## Findings

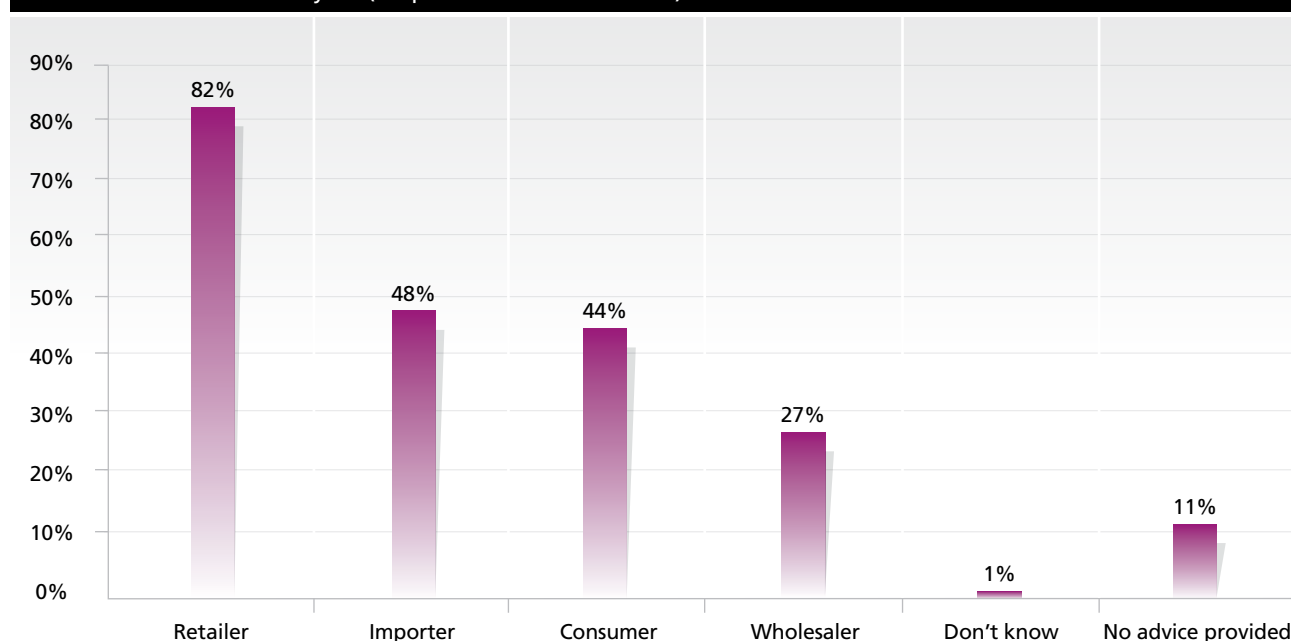
Sixty five per cent of all councils had undertaken tobacco control activities in relation to electronic cigarettes.

### Advice on electronic cigarettes

Councils were asked to select which groups they had provided advice to about electronic cigarettes in the period from 1st April 2013 to the 31st March 2014.

Of councils undertaking activities in relation to electronic cigarettes, 89 per cent had provided advice, whilst 11 per cent had not. Eighty two per cent had advised retailers, followed by 48 per cent advising importers.

**Figure 20: Which of the following groups, if any, did your council provide advice to about Electronic cigarettes in the 2013-2014 financial year (1 April 2013-31 March 2014)?**



**Base:** All authorities undertaking tobacco control activities for electronic cigarettes (96)

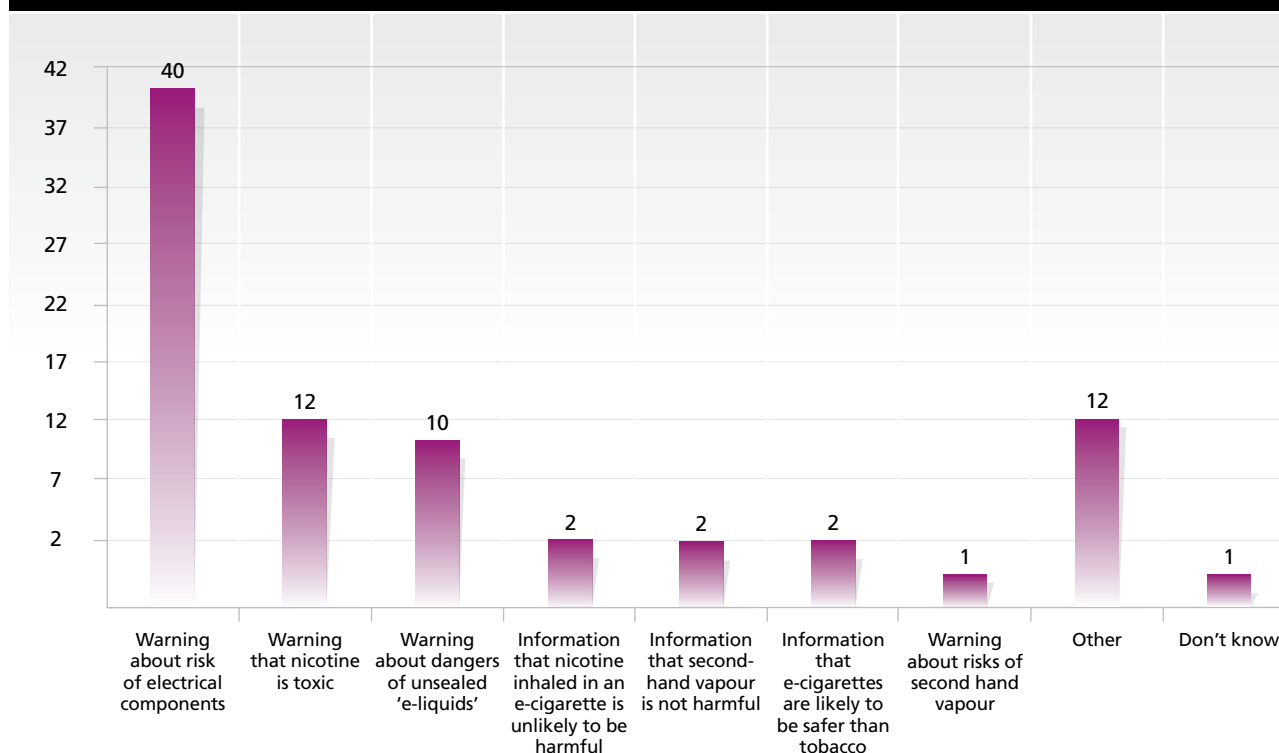
Where authorities were able, they provided detail on the number of times advice was given. This is displayed in table 17.

**Table 17: Please provide detail on the number of occasions that advice was provided on Electronic cigarettes in the period from 1st April 2013 to the 31st March 2014 for the following groups:**

Group	Total number of times advice provided	Median number of times advice provided per council	Base
Consumer	199	3	32
Retailer	487	3	64
Importer	128	1	43
Wholesaler	43	1	20

All councils who had provided advice on electronic cigarettes to consumers were asked to select which area they had provided advice on from 1st April 2013 to the 31st March 2014. By far the greatest number of councils (40 out of 42) provided warnings to consumers about the risk associated with electrical components. Only one council provided warnings about risks of second-hand vapour.

**Figure 21: Which of the following advice, if any, did your council provide to consumers regarding Electronic Cigarettes in the 2013-2014 financial year (1st April 2013-31st March 2014)?**



**Base:** All councils who had provided advice to consumers on electronic cigarettes (42)

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

Article 5.3 of the World Health Organisation Framework Convention on Tobacco Control (FCTC) addresses the matter of the protection of public health policies with respect to tobacco control from the commercial and other vested interests of the tobacco industry<sup>34</sup>.

This is brought forward in the current tobacco control strategy for England: *Healthy Lives; Healthy People*<sup>35</sup> in chapter 10 which includes the following statement:

*"Local authorities are encouraged to follow the government's lead in this area, and to take necessary action to protect their tobacco control strategies from vested interests. While we recognise that there may be legitimate operational reasons for local authorities to deal with the tobacco industry, we would encourage transparency in all dealings".*

In May 2013, Newcastle City Council passed a declaration committing the council to take comprehensive action to address the harm from smoking. This has become known as the 'Local Government Declaration on Tobacco Control'<sup>36</sup>. The declaration commits signatories to:

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

To date there are 57 Councils that have made this commitment.

WHO guidelines on implementing Article 5.3, state that the obligations under this Article apply:

*"to government officials, representatives and employees of any national, state, provincial, municipal, local or other public or semi/quasi-public institution or body within the jurisdiction of a Party, and to any person acting on their behalf".*

They also recommend that public bodies covered by Article 5.3. should introduce:

*"measures to limit interactions with the tobacco industry and ensure the transparency of those interactions that occur; reject partnerships and non-binding or non-enforceable agreements with the tobacco industry; and avoid conflicts of interest for government officials and employees".*

In January 2014, the Trading Standards Institute published its policy on engagement with the Tobacco Industry<sup>37</sup> this was supplemented in June 2014 with the publication of Counsels opinion in the matter of the Institute and the Article 5.3.

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

<sup>34</sup> World Health Organisation Guidelines for implementation of FCTC: Article 5.3 [http://www.who.int/fctc/guidelines/article\\_5\\_3.pdf](http://www.who.int/fctc/guidelines/article_5_3.pdf) [accessed online 23rd June 2014]

<sup>35</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/213757/dh\\_124960.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/213757/dh_124960.pdf) [accessed on line 24th June 2014]

<sup>36</sup> <http://www.smokefreeaction.org.uk/declaration/> [accessed on line 23rd June 2014]

<sup>37</sup> <http://www.tradingstandards.gov.uk/policy/Improvingthehealthofsociety.cfm> [accessed on line 23 June 2014]

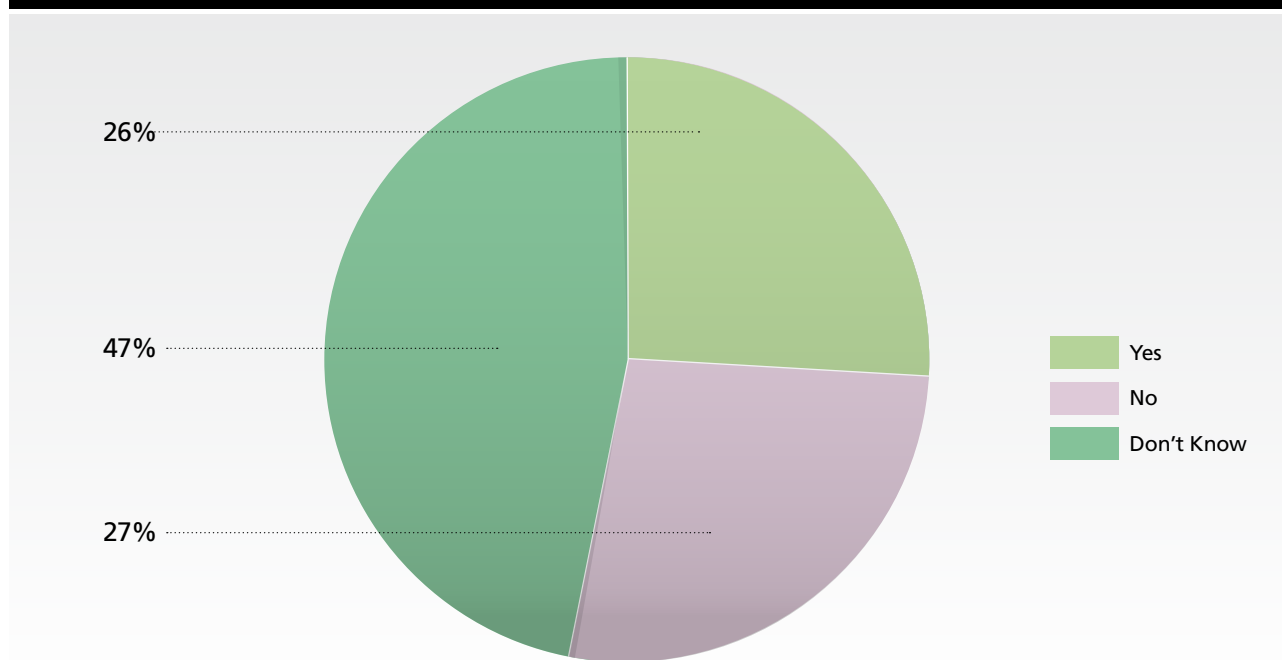


## Findings

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).

The greatest proportion of councils (47 per cent) stated that they did not know whether their council had a written policy in place. Twenty seven per cent of councils stated that their council did not have a policy in place, while 26 per cent of councils stating they did.

Figure 22: 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 2013-2014 financial year (1st April 2013 - 31st March 2014)?

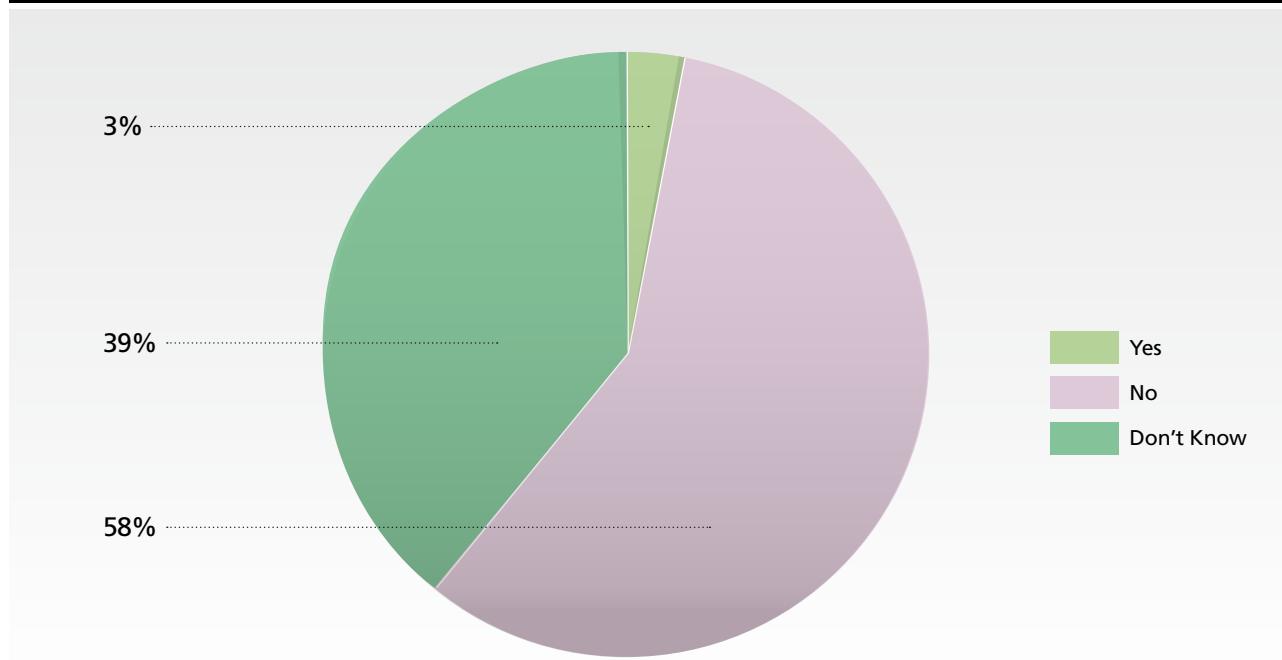


**Base:** All councils (148)

All councils who stated no, or that they did not know (110 councils) 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 2013/14.

The majority of councils (58 per cent) stated that their trading standards service did not. Nearly two fifths (39 per cent) stated that they did not know if their trading standards service had a policy in place, while three per cent stated that their trading standard service did.

**Figure 23: Did your trading standards service have a written policy in relation to article 5.3 of the Framework Convention on Tobacco Control (FCTC) with the tobacco industry in the 2013-2014 financial year (1st April 2013 - 31st March 2014)?**



**Base:** All respondents stating that their council did not have a policy in relation to FCTC (148)

All councils who stated no, or that they did not know (110 councils) 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 2013/14.

The majority of councils (58 per cent) stated that their trading standards service did not. Nearly two fifths (39 per cent) stated that they did not know if their trading standards service had a policy in place, while three per cent stated that their trading standard service did.

## 12 Conclusion

### Types of tobacco control activity

There has been decrease in the number of councils undertaking specific tobacco control activities since 2012-13. The number of councils engaged in underage sales activity, collaborative working and, in particular, the advertising and display of tobacco products have all decreased significantly.

Of note in 2013/14, the greatest number of councils had conducted activities around illicit tobacco products (91 per cent); this has changed from 2012/13 when the greatest proportion of councils (95 per cent) were engaged in underage sales activity.

Additionally, in 2013/14, the smallest proportion of councils (35 per cent) had conducted activities around the advertising and display of tobacco products; in 2012/13 fewest councils were working on niche tobacco products (44 per cent).

### Under-age sales: complaints and enquiries, and visits with trading standard officers

The number of councils who reported receiving complaints and enquiries remained broadly the same as in 2012/13, as did the average number of complaints and enquiries received.

The number of councils undertaking visits with trading standard officers saw a significant decrease from 89 per cent in 2012/13 to 78 per cent of all councils in 2013/14; however the average number of visits undertaken by these councils remained broadly the same as in 2012/13.

Small retailers, off licences and independent newsagents were most likely to be visited by trading standards officers (receiving 36 per cent, 29 per cent and 16 per cent of visits respectively).

### Surveys with volunteer young persons

Fewer councils are now undertaking surveys with volunteer young persons; the number of visits undertaken for those councils undertaking surveys has also decreased.

The number of councils engaged in conducting surveys with volunteer young persons has significantly decreased since 2012/13 (from 92 per cent to 74 per cent of councils). Additionally on average the number of visits undertaken decreased (from a mean of 37 in 2012/13 to 29 in 2013/14).

However, it should be noted that the sales rate of cigarettes to volunteer young persons has also continued to decrease (from 18 per cent in 2008/09 to just 10 per cent in 2013/14).

Whilst small retailers were most frequently targeted for visits to conduct test purchases (40 per cent of all visits), the sales rate (percentage of cigarettes sold in relation to number of test purchases) at 12 per cent was not the highest.

The highest sales rate was found at market/car boot sales (with 50 per cent of visits resulting in illegal sales); however only four visits were undertaken at market/car boots sales.

More test purchases would be need to conducted at market/car boot sales to assess whether the high sales rate would be maintained with a greater number of visits.

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

Numbers of authorities taking action as a result of breaches were maintained in 2013/14 (with 79 per cent taking action). The most common type of action was verbal or written warnings (74 per cent of councils taking action), with fewest councils undertaking legal proceedings (27 per cent of councils). The average number of actions per councils was also maintained in 2013/14 across all types of action.

In 2013/14 lower fines were still most common for successful prosecutions; although significantly fewer were awarded at this level. Out of 25 fines, 64 per cent were for under £500 (which is significantly less than to the 86 per cent of fines under £500 in 2012/13).

No restricted sales or premises orders were approved, which is similar to 2009/10, 2010/11 and 2012/13 when orders were rarely used.

### **Illicit tobacco product strategies**

Awareness and involvement with illicit tobacco control strategies with regions remained broadly the same with 70 per cent stating that there was a strategy in place (broadly the same as the 71 per cent who stated this in 2012/13).

### **Illicit tobacco control activities with HMRC**

The level of collaboration with HMRC has remained broadly the same as in 2012/13. The number of councils working with HMRC was 43 per cent (compared to 46 per cent in 2012/13). However it should be noted that there had previously been a significant reduction in collaboration with HMRC over illicit tobacco decreasing from a high of 63 per cent in 2010/11 to 46 per cent in 2012/13.

### **Illicit tobacco products**

The number of councils dealing with complaints and enquiries in relation to illicit tobacco, and the mean number of complaints and enquiries remained broadly the same as in 2012/13. The overall level of work has now stabilised after a significant increase in the amount of work undertaken between the years 2010/11 and 2012/13. Small retailers were most likely to be the subject of complaints and enquiries about illicit tobacco (with 40 per cent of complaints and enquiries being received about small retailers).

The number of councils conducting visits about illicit tobacco products with trading standards officers, and the mean number of visits by trading standards officers remained broadly the same as 2012/13. Small retailers were most likely to receive visits from trading standards officers (with 51 per cent of visits being undertaken to small retailers).

The most frequently seized illicit tobacco product (by 55 per cent of councils) was genuine non-UK duty paid hand-rolling tobacco; however this was closely followed by genuine non-UK duty paid cigarettes and illicit white cigarettes (51 per cent and 49 per cent respectively).

The greatest proportion of councils (40 per cent) reported that the average intended sales price of seized illicit cigarettes was £3.01 to £4.00; comparatively the greatest proportion of councils (47 per cent) did not know the intended sales price of seized hand rolling tobacco.

Similarly to action taken in relation to under-age sales, actions taken in relation to illicit tobacco products were more likely to be written and verbal warnings (59 per cent of councils) than prosecutions and simple cautions (47 per cent and 29 per cent respectively).

There was an increase in activity in some actions related to illicit tobacco products. There was a significant increase in the number of prosecutions undertaken by councils (from just over one in 2012/13 to just under two in 2013/14).

### **Advertising and the display of tobacco products**

The level of tobacco control activity in relation to the advertising and display of tobacco products saw a significant decrease since 2012/13 (from 70 per cent to 34 per cent of councils).

Similarly to 2012/13, councils were more likely to undertake compliance activities at large retail premises than at wholesale/cash and carry businesses. However there has been a significant decrease in compliance activities since 2012/13 for both large retail and wholesale/cash and carry businesses. Compliance visits at large retail premises saw a decrease from 88 per cent to 71 per cent of councils, whilst compliance visits at wholesale/cash and carry businesses saw a decrease from 45 per cent to 24 per cent of councils.

Despite lower levels of activity, compliance levels were generally high for both visits at large retail premises and visits at wholesale/cash and carry business. However at large retail premises compliance was significantly higher for display over pricing requirements (97 per cent of all display visits with an outcome of compliance, as compared to 70 per cent of all pricing visits).

### Niche tobacco products

Levels of council activity in relation to the detection of niche tobacco products were maintained in 2013/14 (45 per cent of all councils).

Additionally broadly the same number of councils detected niche tobacco products without appropriate labelling in 2013/14. The type of niche tobacco most frequently detected was blunts (64 per cent of councils); this was previously shisha in both 2010/11 and 2012/13.

As with under-age sales and illicit tobacco, written and verbal warnings were most frequently the action taken in relation to those who had detected niche tobacco (72 per cent of councils).

### Collaborative working

With the transition of public health from the NHS to local authorities, one of the two most common key partners were public health teams within respondents' own local authorities (for 75 per cent of councils working collaboratively); the police were also selected as the most common key partner for 75 per cent of respondents.

Of interest, the three key partners selected by the fewest councils were all positioned in the NHS: NHS commissioning teams (selected by 22 per cent of councils), NHS hospital trusts (selected by 16 per cent of councils) and individual primary care practitioners (selected by 14 per cent of councils).

Encouragingly 74 per cent of respondents reported that they had worked from a current Tobacco Control Strategy in their local area. However of note was the significant decrease since 2012/13 in the number of councils stating that tobacco control was generally included in local authority health and wellbeing strategies (decreasing from 87 per cent to 69 per cent). Additionally, only 58 per cent of councils stated that tobacco control was included in their joint strategic needs assessment<sup>38</sup>.

Positively since the transition of public health, the majority of respondents believed that tobacco control had become more of a priority or remained at the same priority level (47 per cent and 42 per cent of respondents respectively). Equally the majority felt that collaboration about tobacco control had either increased or remained at the same level since the transition (with 45 per cent and 44 per cent of respondents stating this respectively).

### Electronic cigarettes

Just over three fifths (65 per cent) of councils had undertaken tobacco control activities in relation to electronic cigarettes; the majority of these councils (89 per cent) had provided to advice to retailers, consumers, importers or wholesalers about electronic cigarettes. Most frequently advice was provided to retailers (82 per cent).

Where advice had been provided to consumers, by far the greatest number of councils (40 out of 42) provided warnings about the risks associated with electrical components.

Safety of electronic cigarettes has been the advice that councils have provided most regularly (for 61 per cent of councils providing advice).

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

Only just over a quarter of councils (26 per cent) had a written policy in relation to Article 5.3 of the Framework Convention on Tobacco Control (FCTC).

<sup>38</sup> It should be noted that questions asking about the use of Tobacco Control Strategies, health and wellbeing strategies and joint strategic needs assessments are based on the awareness of the respondent.

## Annex 1: Additional guidance for the completion of the Tobacco Control Survey 2013-14

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

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

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

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

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

## Illicit tobacco

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

Description	Guidance / Examples
Illicit white cigarettes	Cigarettes produced entirely independently of the International Tobacco Manufacturers (ITMs) that, crucially, have no true, or a very limited, legitimate market. Effectively, cheap whites are brands manufactured for smuggling. Examples include "Jin Ling", "Fest", "Richman" and "Bon".
Counterfeit cigarettes	Product that is manufactured illegally and sold by a party other than the international trademark owner (e.g. "Marlboro", "Benson & Hedges")
Genuine non-UK duty paid cigarettes	Brands that have a legal, legitimate market in the UK however have been smuggled into the country from another location without the any or all of the required Excise/Tobacco Duty having been paid.
Counterfeit hand-rolling tobacco	Product that is manufactured illegally and sold by a party other than the international trademark owner (e.g. "Golden Virginia" and "Amber Leaf").
Genuine non-UK duty paid hand-rolling tobacco	Brands that have a legal, legitimate market in the UK however have been smuggled into the country from another location without the any or all of the required excise/tobacco duty having been paid.
Raw tobacco	Unprocessed, raw or "loose leaf" tobacco that is smuggled into the UK for the purposes of processing into illicit tobacco products (e.g. in combination with counterfeit tobacco pouches).
Counterfeit tobacco packaging/pouches	Empty packaging and pouches that is manufactured illegally and sold by a party other than the international trademark owner (e.g. "Marlboro", "Benson & Hedges", "Golden Virginia" and "Amber Leaf").
Shisha	Refer to the Niche Tobacco Products Directory at: <a href="http://www.ntpd.org.uk">www.ntpd.org.uk</a>
Smokeless tobacco	Refer to the Niche Tobacco Products Directory at: <a href="http://www.ntpd.org.uk">www.ntpd.org.uk</a>
Other	Tobacco product for oral use e.g. Makla Bouhel



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