

DERBYSHIRE COUNTY COUNCIL

MEETING WITH CABINET MEMBER, HEALTH AND COMMUNITIES

24 November 2015

Report of the Strategic Director, Health and Communities

**COMPLETED PROSECUTIONS UNDER TRADING STANDARDS LEGISLATION
APRIL TO SEPTEMBER 2015**

1. Purpose of the report:

To inform the Cabinet Member, Health and Communities of prosecutions concluded during the first half of the year.

2. Information and analysis

- 2.1. The Trading Standards Division enforces a wide range of legislation made by Parliament with the intention of protecting both consumers and businesses from unfair and unsafe trading practices. The vast majority of the legislation the authority has a duty to enforce. The Division has a range of enforcement tools available to help gain compliance. This can range from advice and information to the public to enable them to protect themselves from rogue trading practices and information and advice to local businesses on what they need to do to comply. The vast majority of businesses do indeed want to comply, however, there is a small minority of businesses that are opportunist and willing to cut corners putting profit before the interests of their customers and others who have no intention of complying. Verbal and written warnings, Improvement and Prohibition Notices, Formal Cautions (known now as 'Simple Cautions') are other sanctions available. In addition, for some forms of mischief we can apply to the Civil Court for an injunction or to the Licensing Authority for a licence suspension, additional requirements or revocation. Arguably the most significant deterrent is that of prosecution through the criminal courts.
- 2.2. The Appendix to this report provides a brief summary of cases concluded during the first half of this financial year and reflects the wide range of legislation for which the Division is responsible for. Once again a significant number of cases (five) relate to the supply and sale of counterfeit tobacco in Derbyshire. As well as imposing fines and costs of over £11,000, the Courts also imposed 13 months of imprisonment indicating the serious nature of the offending. The range of sanctions reflects the level of responsibility of the defendants for the offences as they included both shop workers and those responsible for running the business. As well as the sale of illegal tobacco, two individuals trading as a partnership were prosecuted for selling cigarettes to a young trading standards volunteer under the age of 18.

2.3. Other prosecutions included failing to dispose of animal by-products in accordance with Animal Health legislation which poses a significant disease risk. Ten involving HGV's breaching weight restrictions throughout the county; one involving a local estate agency business that mishandled clients' deposits; and two involving the sale of misdescribed and unroadworthy vehicles. Depending on the severity of the crimes, the cases were either heard at Magistrates Court or more serious offences were referred to the Crown Court. The sanctions available to the Courts range from fine through to a Community Order for unpaid work and/or prison sentence. The Court may also order the offender to pay compensation.

2.4. In total during the period in question 22 defendants were prosecuted resulting in the courts imposing a total of £16,675 in fines and awarding £9,990 Prosecution Costs.

3. Legal Considerations:

The Head of Trading Standards, and named senior officers, have authorisation to institute legal proceedings, and are required to prepare regular reports to the Cabinet Member in order to keep him informed of those matters which have been subject to legal proceedings and are now completed.

4. Other Considerations:

In preparing this report the relevance of the following factors has been considered; prevention of crime and disorder, equality of opportunity, legal, human resources, environmental, health, property and transport considerations.

5. Background papers:

Authorisation to Carry Out Enforcement Responsibilities; Cabinet 30th July 2013
http://www.derbyshire.gov.uk/images/2013-07-30%20Authorisation%20Carry%20Out%20Enforcement_tcm44-228685.pdf

6. Key Decision:

No

7. Call-in:

Is it required that call-in be waived for any decision on this report? No

8. Officer's recommendation:

That the Cabinet Member, Health and Communities notes the report.

David Lowe
Strategic Director
Health and Communities

Appendix – Completed Prosecutions April to September 2014-2015

	Court date	Court*	Defendant	Location	Offences	Result		
						Fine (£)	Cost (£)	Other
1	02/04/15	Derby	Stephen Edward Buxton	Sudbury	Failed to dispose of animal carcasses posing a significant disease risk. Animal By-Products Regulation	3,500	750	
2	02/04/15	Derby	Brian Geoffrey Buxton			3,500	750	
3	13/04/15	Derby	Hakem Ali Rahim	Shop worker. Belper Mini Market	6 offences re sale and possession for sale of counterfeit cigarettes – section 92(1) (b) &(c) of the Trade Marks Act 1994.	110	250	
4	15/04/15	C'field	David Richard Highland	Winster Village	Used a heavy commercial vehicle at West Bank, Winster Road Traffic Regulation Act 1984	303	115	
5	17/04/15	DCC	Melanie Clinton	Business owner. Pound Plus Ilkeston and Melanie's Mini Market, Heanor	12 re sale and possession for sale of counterfeit cigarettes – section 92(1) (b) &(c) of the Trade Marks Act 1994.			Four months imprisonment
					3 offences re possession for sale of dangerous cigarettes under reg 20 of the General Product Safety Regulations 2005 – the counterfeit cigarettes failed the reduced ignition propensity test in EN16156 – which legitimate cigarettes must pass.			
					Shopkeeper jailed for illegal tobacco sales: Your council - Derbyshire County Council			
6	17/04/15	Derby	Ali Bakhtear	Employee. Melanie's Mini Market, Heanor	5 offences re sale and possession for sale of counterfeit cigarettes – section 92(1) (b) &(c) of the Trade Marks Act 1994.	300	1,050	6 month community order +12 week curfew (7am to 7pm)

7	21/04/15	Buxton	Mr Michael Anthony Allen	Glossop	Road Traffic Act 1988; Consumer Protection Act 1987 (Part III) Sale of an unroadworthy Citroen Saxo for £495	202	1,358	
8	29/04/15	Derby Crown Court	Helen Gregory	Beechwood Property, Matlock	Jailed for 10 months and disqualified from being a company director for six years after mishandling almost £67,000 of clients' deposits in breach of Consumer Protection Regulations http://www.derbyshire.gov.uk/council/news_events/news_updates/2015/april/news_items/derbyshire_estate_agent_jailed_for_mishandling_clients_funds.asp			10 months imprisonment
9	10/06/15	C'field	Geoffrey Purvis	West Bank, Winster	Used a heavy commercial vehicle (32 tonnes mgw) on West Bank at Winster Road Traffic Regulation Act 1984	233	115	
10	10/06/15	C'field	Darren Alfred Plimmer	Sydnope Hill, Two Dale; Darley Bridge Winster area	Used a heavy commercial vehicle (32 tonnes mgw) – 3 offences Road Traffic Regulation Act 1984	699	115	
11	18/06/15	Derby	Robert Kirk Gregg	Swarkestone Causeway	Used a heavy commercial vehicle on Swarkestone Causeway Road Traffic Regulation Act 1984	206	115	
12	25/06/15	Derby	Neville Collinge	Swarkestone Causeway	Used a heavy commercial vehicle on Swarkestone Causeway Road Traffic Regulation Act 1984	195	115	
13	01/07/15	DCC	Ahsan Ebrahimi t/a Best Shop and Family Shop,	Long Eaton	3 charges of selling counterfeit tobacco, 10 charges of possessing counterfeit tobacco for sale contrary to the Trade Marks Act 1994 and 3 charges of possessing unsafe tobacco, contrary to General Product Safety Regulations 2005. http://www.derbyshire.gov.uk/council/news_events/news_updates/2015/july/news_items/shopkeeper_	-	-	6 months imprisonment; surrendered £2,300 cash seized under POCA

					and_shop_worker_jailed_for_illegal_tobacco_sales.asp			
14	01/07/15	DCC	Ali Mahmoudi	Sales assistant, Best Shop Long Eaton	2 charges of selling counterfeit tobacco and four charges of possessing counterfeit tobacco for sale	-	-	3 months imprisonment. Also sentenced to additional 6 months for having 30,000 counterfeit cigarettes (HMRC)
15	08/07/15	C'field	William Weatherall t/a Junction Motors	Chesterfield	Sold an unroadworthy transit van; excessive corrosion to structural parts http://www.derbyshire.gov.uk/council/news_events/news_updates/2015/july/news_items/car_dealer_fined_for_selling_vehicle_in_unroadworthy_condition.asp	675	1,500	
16	05/08/15	C'field	Neil Stewart Sharpe	West Bank, Winster	Used a heavy commercial vehicle on the B5057 through the village of Winster Road Traffic Regulation Act 1984	415	115	
17	06/08/15	Derby	Dana Hamid t/a The Sweet Shop	Swadlincote	Had in his possession for supply counterfeit and unsafe cigarettes (failed the reduced ignition propensity test) Trade Marks Act 1938 & 1994; General Product Safety Regulations 2005	4,000	2,687	
18	19/08/15	C'field	Mark Anthony Shaw	West Bank, Winster	Used a heavy commercial vehicle on West Bank at Winster Road Traffic Regulation Act 1984	450	115	
19	16/09/15	C'field	Karmjit Singh t/a Killamarsh News (partnership)	Killamarsh	Sold cigarettes to a young person under the age of 18. Children & Young Persons Act 1933	500	305	

20	16/09/15	C'field	Amarjit Kaur t/a Killamarsh News (partnership)	Killamarsh	Sold cigarettes to a young person under the age of 18. Children & Young Persons Act 1933	500	305	
21	17/09/15	Derby	John Brian Clayton	Swarkestone Causeway	Breach of weight restriction Road Traffic Regulation Act 1984	447	115	
22	24/09/15	Derby	Shaun Evans	Stanton by Bridge, near Swarkestone	Breach of weight restriction Road Traffic Regulation Act 1984	440	115	
Total Fines and Costs:						16,675	9,990	

*Magistrates Court unless otherwise indicated; DCC – Derby Crown Court