

REPORT TO: Safer Policy and Performance Board

DATE: 8 November 2016

REPORTING OFFICER: Strategic Director
Enterprise, Community and Resources

PORTFOLIO: Community Safety

SUBJECT: Counterfeit/Illicit Goods & Trading
Standards

WARDS: Borough Wide

1.0 PURPOSE OF THE REPORT

1.1 The report identifies the issues related to counterfeit/illicit goods and illustrates the work of Trading Standards when dealing with criminality across Halton.

2.0 RECOMMENDATION: That the report be noted.

3.0 SUPPORTING INFORMATION

3.1 What are counterfeit and illicit goods?

3.1.1 Counterfeit (Fake, Blag, Snide) Goods

Criminal intellectual property offences tend to relate to the sale, production, possession or distribution of 'counterfeit' (fake) goods that bear an unauthorised registered trade mark. Or the 'piracy' of artistic works including films, music, etc., including copying, distribution and importation of DVD's, video games and CD's.

Counterfeit goods invariably are of a poorer quality to the genuine items as they are not subject to rigorous safety tests and quality controls. In turn this can lead to safety issues for the consumer, e.g:

- hair straighteners can overheat – welding the hair together, resulting in permanent scarring of the scalp
- vodka can be produced with industrial grade alcohol (e.g. screen wash) containing high levels of methanol or i-propanol - which can lead to blindness and induced coma

Those breaching the legislation can expect penalties ranging from low level fines, right up to ten year custodial sentences, for Trade Mark offences. Furthermore, if Money Laundering can be proved the offenders can expect sentences up to 14 years in prison and under the Proceeds of Crime Act 2002 the assets of the criminal can be seized and forfeited.

3.1.2 Illicit (Smuggled) Goods

Illicit tobacco refers to products which have been imported into the UK illegally and thereby have breached taxation legislation, i.e. the appropriate duties haven't been paid by the importer or seller.

Whilst taxation enforcement issues fall to HMRC, the labelling of illicit tobacco invariably fails to comply with legislation enforced by Trading Standards. Whilst the agencies will work in partnership on larger cases the majority of investigations so far in Halton have related to relatively low volume suppliers and so have been dealt with by Trading Standards alone. Sellers of illicit tobacco often diversify into selling counterfeit goods including tobacco.

3.2 Legislative Duty to Enforce

To combat the trade in counterfeit (fake) goods the legislature in Europe and in the UK have over the years developed a range of legislation to protect the wellbeing of residents and the legitimate businesses that provide economic growth and employment across the Euro Zone, the UK and Halton.

Much of the relevant UK legislation is driven by EU Directives, which provide a 'duty to enforce' for Trading Standards Officers.

3.3 Who are the victims?

The market for counterfeit goods exists because some consumers perceive it as a victimless crime - a cheap way of having the goods they want without harm to anybody other than wealthy brands. The truth of the matter is that consumers have been injured by unsafe counterfeit products and retailers have lost trade to the counterfeiters.

3.3.1 Consumer Victims

Consumer's either knowingly, or unwittingly, purchase counterfeit goods. Those who do so knowingly, either foolishly accept the safety risks associated with unsafe products or they are unaware of the risks they are taking. Trading Standards seize opportunities to raise awareness of counterfeit goods through the local press and regional press; via press releases; initiatives – counterfeits in the workplace, poster campaign targeting workplaces, doctors surgeries and council buildings; and our own internal iCAN messaging service.

Whilst Halton has not had any reports of serious injury from counterfeit products, colleagues elsewhere in the country have been involved in cases where a thirteen year old girl was permanently scarred due to

counterfeit GHD hair straighteners, and where a family was left homeless because their counterfeit iPhone charger exploded during the night.

3.3.2 Business Victims

The growth of the internet may have forced some of the 'big' retail giants to transform their business models into 'bricks and clicks', however, for the smaller high street entrepreneurs it has been a difficult ride with less opportunity to change their business models. Local businesses in Halton will have been affected not only by consumer switch to the internet, but also by the growth of individuals involved in the sale of counterfeit goods from their own homes to local people.

From an economic perspective every sale of a counterfeit product on Facebook is a potential lost sale for a local shop owner, whether that be fashion wear, electrical products, cosmetics, handbags, alcohol and tobacco.

3.4 Who are the Counterfeiters?

Essentially there is a three tier system in place: local criminals, regional criminals; and serious organised crime groups (SOCG) (UK/International).

3.4.1 Local Criminals

Historically counterfeit/illicit goods have been sold via local car boot sales, markets and the 'spiv' down the local pub. More recently with the growth of the internet, auction sites like ebay became the counterfeiters selling medium.

The last five years has seen an exponential growth in the sale of counterfeit/illicit goods via Social Networking Sites, such as Facebook and Shpock. Providing the opportunity for criminals to not only sell from the comfort of their own home, but to have access to a wider market through their customer's Facebook friends.

In December 2013 Warrington & Halton Trading Standards carried out an audit of Facebook accounts operating within the Boroughs, targeting specifically Facebook buy and sell groups and their members, or individuals involved in the sale of counterfeit goods. The audit identified:

- 32 buy and sell sites (not an exhaustive list)
- 26 individuals selling counterfeit goods (via the buy and sell sites only) – including GHD's, cosmetics, perfumes, clothing and illicit tobacco and cigarettes.
- Four accounts selling only illicit tobacco.
- One account was involved in organising potentially illegal poker nights.

- Another account appeared to be involved in illegal money lending.

Another audit specifically for Halton is scheduled for 2016, although the level of intelligence we are receiving suggests that such activity by Halton residents has not declined.

It is estimated the average Facebook account seller generally has a weekly revenue in the region of £500-£2,000, equating to an annual revenue of between £26,000-£104,000. Therefore, the potential annual revenue of the sellers identified in the Audit across the two Boroughs would be in the region of £676,000 - £2.7m. These figures must have an impact on the businesses and income of legitimate local traders.

3.4.2 Regional Criminals

Some local criminals obtain their counterfeit goods via the internet from overseas traders predominantly based in China, however, the majority of sellers purchase them from the numerous warehouses located in Cheetham Hill, Manchester.

Some 'entrepreneurial' local criminals have developed into 'Facebook Super Account' users, not content with supplying their close friends and family they also operate mail order and deliveries, throughout the UK and Halton respectively.

Some of the criminals involved at this level ultimately sell their manufactured wares to local criminals and some will have links to local, national and international SOCG's.

3.4.3 SOCG

Counterfeit goods sold in the many warehouses in Cheetham Hill, which are eventually sold on the streets of Halton, may have direct links to SOCG's, both in the UK and overseas. Interpol have established a clear link between the trade in counterfeit/illicit goods and SOCG. This shift in commodities from drugs to counterfeit goods is driven by lesser sentences and a greater profit ratio.

Cutting off the demand at a local level for these goods will have a direct impact on the criminality of the SOCG's.

What's happening in Halton?

3.5 Halton Trading Standards Role

The Service takes a proactive and reactive role in the enforcement of counterfeit/illicit goods across the Borough.

Proactively the service will initiate project work to address the latest trends in criminality, based upon research and/or intelligence. The Service has an eCrime specialist who polices the local internet and social networking sites. Furthermore, the Service is actively engaged in developing partnerships with Cheshire Constabulary and provides assistance during operations for Police matters where counterfeit goods may be uncovered.

Reactively, the Service will follow up complaints and intelligence received in relation to criminals involved in the sale of counterfeit/illicit goods, with a zero tolerance approach taken towards those involved in the sale of tobacco and alcohol products.

3.5.1 Recent Cases

Roger Bailey:

On 14th July 2016, a male from Widnes was found guilty of five offences breaching the Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002. As part of a joint operation in February 2016 involving Cheshire Police and Halton Trading Standards, the individual was caught in possession of tobacco products that did not comply with the aforementioned legislation. The Court ordered the defendant to pay a fine and costs totalling £775. In sentencing the court was sympathetic to the health issues of the defendant.

In addition a Proceeds of Crime application was made based upon the perceived benefit of £4,386 and the defendant was ordered to pay a confiscation order calculated on the cash seized during the operation of £750. Also the Court ordered the forfeiture of the defendant's iPhone 6 and destruction of the tobacco seized.

Ian Baldwin:

On the 9th August 2016 a 50 year old Runcorn man was sentenced at Runcorn Magistrate's Court after pleading guilty to 21 offences relating to counterfeit and illicit alcohol and tobacco seized last December from his taxi, his personal vehicle and a storage unit.

The defendant, who was working as a taxi driver in Chester, was stopped in his taxi just after leaving his home address in Runcorn during a joint operation with Halton Trading Standards and Cheshire Police. The haul of illicit hand rolling tobacco and cigarettes along with 26 litres of counterfeit Vodka and 108 bottles of illicit wine (that were not marked with traceability information) had a street value of over £1700.

The taxi was also seized by the Police because it was being used to facilitate crime, along with £790 in cash and three mobile phones.

The prosecution was taken by Halton Trading Standards (for illicit and counterfeit products) and Halton Environmental Health (for food safety and food labelling issues).

The Vodka was analysed and found to be unfit for human consumption and unsafe because it contained i-Propanol and i-Butanol. i-Propanol is a chemical that's commonly found in rubbing alcohol, hand sanitizers, and certain cleaning products and poisoning usually causes: stomach pain; confusion; dizziness; slowed breathing and can lead to a coma. i-Butanol is a chemical that is used in paint solvents, varnish removers and ink, and poisoning can cause irritation to eyes, skin & throat; headache and drowsiness.

Sentencing the defendant to 6 months and 12 weeks custody (to run concurrently, both suspended for 2 years) and a 20 day Community Requirement plus ordering that he pay £1000 in costs and an £80 victim surcharge, the Court commented that as a taxi-driver he had been in a position of trust when he was selling bottles of Vodka that had been contaminated, which was a public health issue. The Court granted an application for the forfeiture of all goods and cash seized including the taxi which the defendant had valued at £26,000.

4.0 POLICY IMPLICATIONS

None

5.0 FINANCIAL IMPLICATIONS

None

6.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES

6.1 Children and Young People in Halton

Children and young people in Halton are at risk of receiving counterfeit goods which may pose detrimental to their health. For Halton smoking continues to have a significant impact on the morbidity and mortality rates and most young smokers claimed to have started smoking at the ages of 13-14, 38% were 12 or under when they first started smoking.

In 2015 31% of respondents aged 14-17 years in Halton who smoke (Trading Standards North West survey) reported they had bought cigarettes with health warnings in different languages i.e. illicit cigarettes.

6.2 Employment, Learning and Skills in Halton

Since May 2015 Trading Standards have seized, or had forfeited: 25,561 cigarettes; 3.4 kg of tobacco; 69 other items; £2,140 in cash; two vehicles (including a Taxi cab); and 5 mobile phones. The value of items seized is in excess of £22k, plus the vehicles at £27k.

It should be noted the seizures from the individuals involved represents only a snapshot in time in relation to their supply of illicit/counterfeit goods – sellers tend to operate supply to order business models and therefore the days of big seizures have gone. The apprehension and prosecution of these individuals has removed them from the supply chain and sent out a clear deterrent to other criminals.

6.3 A Healthy Halton

The health implications associated with traders who deal in counterfeit/illicit tobacco should be noted and according to www.ash.org nationally:

- two thirds of smokers start before age 18 and of those who try smoking, between a third and a half will become regular smokers.
- half of all regular cigarette smokers will eventually be killed by their addiction.
- annually around 100,000 smokers in the UK die from smoking related causes.
- smoking accounts for: a third of respiratory deaths, a quarter of cancer deaths, and a seventh of cardiovascular disease deaths.

Further statistical information highlights the issues from a local perspective for Halton residents:

- smoking continues to have a significant impact on the morbidity and mortality rates.

6.4 A Safer Halton

See 6.3

6.5 Halton's Urban Renewal

None

7.0 RISK ANALYSIS

None – the report is for information only

8.0 EQUALITY AND DIVERSITY ISSUES

None

9.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

None under the meaning of the Act.