

From: Clair Bell Cabinet Member Cabinet Member for Community and Regulatory Services

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To: Growth, Economic Development and Communities Cabinet Committee

Subject: Impacts of new border controls on Trading Standards activities

Classification: Unrestricted

Past Pathway of report: N/A

Future Pathway of report: N/A

Electoral Division: All

Summary:

This report provides an update on the impacts on Kent County Council Trading Standards of the new Border controls in so far as they have been implemented at this time.

Recommendation(s):

The Cabinet Committee is asked to note and discuss the report.

1. Introduction

- 1.1 Kent County Council (KCC) Trading Standards as statutory Service has a duty to enforce a wide range of criminal legislation covering the trading and farming sector, from production to retail, manufacture to importation.
- 1.2 In this capacity, the Service plays a role at the border acting as the market surveillance authority for product safety, the feed authority for imported feed and the enforcement authority for issues surrounding breaches of animal disease control or legislation.

2. Background

- 2.1 Since the signing of the Maastricht Treaty in 1992, EU goods have flowed through the channel ports in both directions without the need for any kind of border controls or checks. There have been no checks, or infrastructure to carry them out, on goods at Dover for over thirty years and, because it opened after that date, there have never been checks at the Channel Tunnel.
- 2.2 The U.K.'s departure from the EU means that this free flow of goods is no longer the case. The EU introduced checks on goods flowing from the U.K. at the end of the transition period on 1st January 2021, applying the EU's normal third country customs and regulatory regime to UK goods.

2.3 The UK did not, at that time, do likewise. This created three consequences.

- UK exporters faced burdens exporting to the EU which their EU based counterparts importing goods into the UK did not face
- The lack of controls was viewed as potentially granting the EU unjustified preferential treatment over other trading partners, a situation which could breach World Trade Organisation rules
- Concerns were expressed by certain domestic businesses sectors that the absence of controls was placing the UK at risk of animal disease and food fraud.

2.4 As a result, the UK Government has developed a new 'Borders Target Operating Model' (BTOM) which will harmonise controls in relation to the safety and security of incoming goods from all trading partners, including the EU¹.

2.5 The introduction of the BTOM has been delayed several times but we have started to see its impact from 30th January 2024.

3. Location for Import checks in Kent

3.1 Entry into Kent is through the Port of Dover and Eurotunnel. Vehicles entering through the ports may be inspected as they leave Dover Eastern Docks or as they enter Eurotunnel at Coquelles. They may also be directed to one of the other facilities in Kent for inspection depending on the goods carried.

3.2 A fast parcel hub, Dartford, processes mailed parcels flown from outside the EU to airports in the EU and shipped through Dover for delivery in the UK.

3.3 From 30 April 2024 **Sanitary and Phyto-sanitary (SPS)** products (food, feed, plants, animals) of medium and high risk are required to pass through a **Border Control Post (BCP)**. The designated BCP for both Dover and the Channel Tunnel is at Sevington, Ashford. This means that goods vehicles requiring checks to be carried out will be directed to Sevington from both ports.

3.4 At present the volume of checks to be carried out remains unclear as the previous free flow of goods means there is no accurate data. The UK imports approximately 46% of the food it consumes and 28% of that food comes from EU countries. Around 25% of UK food imports pass through the Short Straits' ports of Dover and the Channel Tunnel.

3.5 Other goods may be directed to an **Inland Border Facility (IBF)** for processing. There are commercial IBFs at Dover Western Docks and Stop 24 (J11 M20) and an HMRC IBF at Sevington (J10a M20). From 30 October 2024 safety and security declarations are required on all EU goods, which will identify the import and enable an increase of targeted inspections.

4. Areas of Specific Concern for Trading Standards at the border

4.1 There are three specific areas of interest for Kent Trading Standards.

- Imports of consumer goods (dealt with under chapter 5 of this paper)
- Animal health (dealt with under chapter 6 of this paper)

¹ Who has responsibilities for carrying out checks at the borders is set out in Annex 1

- Imported feeds (dealt with under chapter 7 of this paper)
- 4.2 These impose a statutory duty upon the County Council, which Trading Standards discharge, to enforce the legislation imposing controls on these areas of trade.

5. Imports of Consumer Goods

- 5.1 Trading Standards act as the market surveillance authority for the safety of imported consumer goods. Prior to EU exit this role integrated with other EU market surveillance authorities, with checks on goods destined for the UK carried out in whichever country they entered the EU.
- 5.2 Post EU exit preventing unsafe goods entering the UK from both EU and non-EU countries, where goods enter the UK by a Kent portal, falls to Kent Trading Standards. This, inevitably, increases the burdens on the Service, and this is likely to increase over time as the BTOM becomes established
- 5.3 Currently non-EU goods are required to make safety and security declarations prior to import that detail the products being imported. This notifies the central HMRC hub which flags goods of interest to Border Force for targeted inspection.
- 5.4 This process is also used by the **Office of Product Safety and Standards (OPSS)** (part of the Department of Business and Trade), which has national responsibility for product safety in the UK, and which in turn notifies local Trading Standards Services of imports of interest for their examination and inspection.
- 5.5 As there is no requirement for declarations for EU origin goods until October 2024, there is no clear indication of the types and volume of goods of interest to Trading Standards entering through the Kent ports. This will increase the volume of inspectable goods to numbers already inspected, detained, or sent back by the Service.

5.6 Product Safety at the borders

- 5.7 The Trading Standards Ports Team was created in February 2019 to manage and prepare for the increase in imports through Kent ports of entry and the predicted impact of EU exit.²
- 5.8 The team currently consists of eight Officers, a Ports Manager, a Senior Imports Compliance Officer (ICO), and six ICOs, this is to try to meet demands of the multiple sites of the entry at Dover Port, Eurotunnel, Sevington IBF and Dartford Fast Parcel Hub (FPH) (see section 3 of this paper). All staff engage in inspection of goods at these sites.

5.9 Post Transition Demands

- 5.10 Kent is in a unique position with the largest Roll On, Roll Off (RoRo) port in the UK. The creation of the Trading Standards Ports Team provided an opportunity to develop a method and process to deal with the volume, type, and fast

² The volume and value of the goods prevented from entering since 2019 by the team is in Annex 2

turnaround of goods on vehicles as they entered the country. The team were also able to develop a close working relationship with Border Force has been invaluable in setting up a direct referral system to deal with the Dartford FPH.

5.11 The Service closely liaises with the OPSS who run the national ports and borders project, which includes providing grant funding to Kent Trading Standards.

5.12 As such OPSS are aware of the unique and dedicated role Kent has developed to meet new challenges arising from leaving the EU and the impact this has on the Short Straits' ports.

5.13 There are ongoing discussions on the issues facing the inspection of goods on vehicles passing through at RoRo ports, which Kent is developing systems for. The OPSS intend to introduce the Kent model throughout the UK as a template.

5.14 Sevington Inland Border Facility (IBF)

5.15 The creation of the IBF at Sevington along with the planned increase in checks on site will be challenging for Trading Standards, as it creates significant demands away from the ports.

5.16 To address this the Team will maintain its flexible approach, adapting its operating and delivery model to meet ongoing changes, liaising with OPSS as increasing demands may require additional funding³.

6. Animal Health and Welfare

6.1 Trading Standards is the enforcement authority in Kent for animal health issues, working closely with the Animal and Plant Health Agency (APHA) as the regulating authority.

6.2 APHA act to determine the health of animals, examine paperwork and passports and licence journeys. However, any breaches of the legislation at the Short Straits are passed to Kent as the enforcement authority to take further action including prosecution. Any increase in the number of animals being imported through Kent, such as with the opening of a BCP (see below) will have an impact on the enforcement activities undertaken by Kent Trading Standards.

6.3 Imported livestock.

6.4 The importation of animals from the EU is significant, and as with other SPS products, prior to EU exit animals freely moved, subject to occasional veterinary checks at the border. Currently live animals are checked by APHA at destination, with any breaches of legislation enforced by the local Trading Standards service.

6.5 From late 2024 animal imports through the Short Straits will be processed and inspected at the BCP at Sevington. Concentrating examination of animals here (rather than at destination), will inevitably increase referrals to Kent Trading

³ The change in volumes of goods at the points of inspection from 2022 to 2023 is set out in Annex 3. Of note is the increase in goods being stopped at Coquelles by UKBF for TS

Standards for investigation. This is likely to increase workload on top of domestic animal health issues.

- 6.6 To meet additional pressures arising from the changes, four additional Animal Health Officers were recruited over a two-year period allowing time for sufficient training on the wide range of legislation covering this area. They have also completed the **Chartered Trading Standards Institute (CTSI)** animal health competency paper. These officers are currently dealing with non-compliances caused in part by increased financial costs from imported feed and veterinary medicines as well as managing the disease outbreaks of Avian Flu and Bluetongue.

7. Imported Feeds

- 7.1 Import controls relating to high-risk feed not of animal origin (HRFNAO) are the responsibility of Trading Standards as the Feed Authority. Before leaving the EU, no inspection and sampling of imported feeds was carried out at the ports by the Service as feed from the EU was subject to free circulation, requiring no further checks on entry to the UK.
- 7.2 Feeds from outside the EU could only be imported through a port with an approved BCP, authorised to process SPS products of that type. As there was little commercial demand for this at Dover or Eurotunnel there was a limited dry goods with the BCP at Dover processing Turkish dried fruits as food, but no feed was processed'.
- 7.3 From 30 April 2024 all high and medium risk SPS goods, including animal feed, entering the UK will need to enter through the approved BCP, which for Dover and Eurotunnel is Sevington.
- 7.4 While this will deal with EU goods, the presence of a BCP that can process a wide variety of goods will see an increase in third country goods that are currently not able to use the Short Strait's route.

7.5 Impact on KCC Trading Standards & Kent Scientific Services

- 7.6 Trading Standards as the Feed Authority will be required to carry out a percentage of checks on feed imports on site at Sevington, looking at documentation, examining and sampling the loads where necessary. This will increase the demand on the Service which is likely to increase with importers from third countries making use of the BCP at Sevington.
- 7.7 Sampling of animal feed is a lengthy process set out in law, requiring representative samples to be taken from across the entire load before being mixed and reduced until relevant sample portions are available that are sent for analysis. Like imported food products, there are often significant issues arising from the technical composition of the feed and its intended use.
- 7.8 Analysis of any samples taken is required by law to be carried out at a designated Official Control Laboratory by a qualified Agricultural Analyst. KCC is required to appoint an Agricultural Analyst by law.
- 7.9 Kent Scientific Services (KSS), KCC's in-house scientific laboratory, is a designated Official Control Laboratory and employs two fully qualified

Agricultural Analysts. There are only four such laboratories in England, with the next nearest being in Portsmouth or Wolverhampton. The location of KSS means that delays to movement of goods caused by transporting of samples for analysis will be minimised.

7.10 KSS is a highly experienced laboratory, carrying out this work for other major UK ports including the Port of London, Felixstowe, and Southampton. KSS is ready to deliver the necessary testing to the Kent ports and is part of a network of laboratories such that other, less urgent work could be moved into that network if the numbers of tests required from the Kent ports risks overwhelming the facility.

7.11 Staffing

7.12 Legally, feed work must be conducted by a suitably qualified Officer, currently KCC Trading Standards has only three Officers who are already conducting **Food Standards Agency (FSA)** funded annual feed inspections at farms and feed producers in Kent. A significant increase in feed sampling at the ports will impact on the capacity of the current staff.

7.13 To address this shortfall, two officers are currently training to be feed qualified, sitting the Chartered Trading Standards Institute professional qualification over a three-year period, for which they will sit the feed paper enabling them to carry out this work from August 2024.

7.14 To assist these qualified officers to deal with demand, the Animal Health Officers have been trained to sample, which they do under the direct supervision of the qualified staff, who will process and following up on the sample results.

7.15 Any work conducted on feed imports through a BCP is chargeable to the importer. This covers the inspection, sampling, and testing of the product, and is based on a full cost recovery basis, ensuring any work undertaken is cost effective from the outset.

7.16 Currently there is no data to estimate the levels of EU imports that will require checks by Trading Standards, however from 30 January 2024 as prenotifications are required on all SPS products entering the UK from the EU, which will identify actual volumes. It is likely that as the Short Straits are a convenient route for import into the UK, there will be an increase in this area of work with associated income.

8. Financial Implications

8.1 The Service has received just over £500k additional base line funding to meet the demands on the Service arising from leaving the EU. KCC has tried unsuccessfully to secure additional funding from Government to address the duties Kent has taken on because of the UK leaving the EU, with these duties being purely due to our geographical location.

8.2 OPSS Funding

8.3 Funding for product safety work at the ports is provided annually in the form of a grant from OPSS as part of its ports and borders project. They have recognised the increase in goods subject to checks and the role of the Ports Team and increased funding accordingly year on year to the current value of £280K.

8.4 This is expected to increase next year as the Service develops processes and associated systems on dealing with the Short Straits RoRo Ports, to meet OPSS's requirements to then roll this out across the UK. As this will lead to additional demands on the Service, requiring additional staff, this can only happen with full funding from OPSS. This is currently being drafted in line with Border Force operations and the final options will be negotiated with OPSS.

8.5 Defra Funding

8.6 Kent Trading Standards inspection and testing of animal feeds at Sevington is a new duty beginning on 30 April 2024.

8.7 In previous years, the Service requested funding from Defra to employ additional Officers for the new statutory burdens on KCC Trading Standards, including KCC investing in training new staff to be qualified to carry out the additional work. Although initially positive, changes in the time frame to implement controls at the border with a lack of figures on EU feed imports through the Short Straits, saw Defra unwilling to provide any funding for Trading Standards, a situation which continues to this point.

8.8 The pre-notifications on SPS products that began on 30 January 2024, will start to provide accurate figures for the number of EU products imported through the Kent ports that would be of interest to Trading Standards, but before this is implemented it has been difficult to request specific funding.

8.9 This will continue to be reviewed and a business case for additional funding will be submitted to Defra where this is evidenced from the figures and the workload generated.

8.10 However the legislation controlling sampling feeds at the border allows for the work conducted (including analysis costs) to be fully cost recovered, charging the importers for any feed subject to inspection. This will at least offset the cost of carrying out this additional work.

9. Legal implications

9.1 N/A.

10. Equalities implications

10.1 N/A.

11. Other corporate implications

11.1 N/A.

12. Governance

12.1 N/A

13. Conclusion

13.1 Trading Standards has been involved in planning for implementing new controls for at least five years. During this time, the Government has changed and developed plans for controls on goods entering the UK, impacted by outside events (Covid and the war in Ukraine) and the need to finalise an acceptable solution to processing goods through Northern Ireland.

13.2 The response from the KCC Trading Standards Service to the challenges remains flexible and pragmatic, responding to changing demands without unnecessarily increasing staffing until proposed plans provided certainty. However, given the time that it takes to recruit and train competent staff to meet the demands of these additional duties, staffing has increased to a level to meet the best predictions available regarding demand.

13.3 After the publication of the Border Targeted Operating Model and the final implementation dates (30 Jan, 30 April, and 30 Oct 2024), planning can be finalised, engaging with partner agencies and implementing training of staff.

13.4 The Service maintains regular and effective liaison with relevant Government Departments so that they recognise and respond to requests for funding to meet the increased and yet undetermined workload at the border.

13.5 What is clear throughout this process is Trading Standards can only address the new issues if they continue to develop existing staff and recruit new staff where it is critical to meet identified risks, so the Service can meet its statutory responsibilities, protecting the people and business of Kent, now and in the future.

14. Recommendation(s):

14.1 The Growth, Economic Development and Communities Cabinet Committee is asked to note and discuss the report.

14. Background Documents

14.1 The Border Targeted Operating Model (BTOM) - https://assets.publishing.service.gov.uk/media/64f6e2629ee0f2000db7be8e/Final_Border_Target_Operating_Model.pdf

15. Contact details

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Annex 1

Agencies Responsible for Carrying out Import Checks at the Ports

SPS products (Food, Feed, Animals, Plants)

- **Port Health (PH)** – Health, Hygiene, and Food Standards - Imported Product of Animal Origin, Imported Food not of animal origin, Plastic Kitchenware, Organics, Fish.
- **UK Border Force (UKBF)** – Illegal Imports of Product of Animal Origin, CITES breaches
- **Animal and Plant Health Agency (APHA)** – Animal Health control on import
- **Trading Standards** – Imported high risk feedingstuffs, Investigation and legal action of breaches of animal health uncovered by APHA.
- **Plant Health Inspectorate** – Plant health disease control
- **Horticultural Marketing Inspectorate (HMI)** – Marketing standards e.g. egg grading and fruit grading.
- **Forestry Commission** – Timber including packaging and pallets for pests and diseases

Non-SPS Products

- **Border Force** – Prohibited goods, Immigration, Personal imports, counterfeits
- **HMRC** – Revenue issues
- **Trading Standards** – Safety of consumer goods
- **Medical and Healthcare Regulatory Agency (MHRA)** – Imported medicines and medical products.

Annex 2

Ports Team figures for import stopped entering the UK since 2019. The figures are submitted in the Association of Chief Trading Standards Annual Impacts and Outcomes returns.

Year	Number of products removed from/prevented from entering the supply chain	Value of products (Calculated using per item value based on the matrix report of 2014 with inflationary increases based on retail price index)
2019-2020	1,102,282	£36,452,465
2020-2021	635,645	£21,166,978
2021-2022	490,008	£17,164,980
2022-2023	1,135,862	£39,789,245
2023 – Jan 2024	1,078,946	£37,795,478.38
Totals in 5 Years	3,363,797	£152,369,146

Annex 3

Trading Standards Import Data comparisons 2022 to 2023.

2022

Site	Jan to June 22					Jul – Dec 22				
	Total Checked	No entry	Released but modified	Release on hold	% Fail	Total Checked	Stopped	Released but modified	Release on hold	% Fail
Dover	754,500	172,000 (23%)	36,400 (5%)	91,300 (12%)	39%	1,039,000	481,000 (46%)	6,200 (0.6%)	217,600 (21%)	67%
Dartford	4,900	2,300 (47%)	0	500	47%	9,800	3,100 (31%)	104 (1%)	2,600 (26.5%)	58%
Sevington J10A M20	54,000	4,000 (7%)	6,000 (11%)	0	18%	331,000	311,000 (100%)	0	0	100%
Stop 24 J11 M20	0	0	0	0	0	33,000	33,000 (100%)	0	0	100%
Coquelles, France	0	0	0	0	0	0	0	0	0	0

2023

Site	Jan to June 23					Jul – Dec 23				
	Total Checked	No entry	Release but modified	Release on hold	% Fail	Total Checked	Stopped	Released but modified	Release on hold	% Fail
Dover	47,300	36,000 (76%)	0	11,000 (23%)	99%	138,600	106,000 (76%)	0	0	76%
Dartford	92,000	45,000 (49%)	13,000 (14%)	11,000 (12%)	75%	493,000	41,000 (8%)	18,000 (3.6%)	35,000 (7%)	19%
Sevington J10A M20	86,000	58,000 (67%)	2,000 (2%)	0	69%	35,000	12,000 (34%)	0	0	34%
Stop 24 J11 M20	0	0	0	0	0	0	0	0	0	0
Coquelles, France	69,000	69,000 (100%)	0	0	100%	889,000	194,000 (22%)	0	0	22%