

From: Mike Hill, Cabinet Member for Community and Regulatory Services
Barbara Cooper, Corporate Director Growth, Environment and Transport.

To: Growth, Economic Development and Communities Cabinet Committee – 17 November 2020

Subject: Trading Standards Activity and Preparations for the end of Transition

Classification: Unrestricted

Past Pathway of report: N/A

Future Pathway of report: N/A

Summary:

This report provides an update on Kent County Council Trading Standards activities in preparation for the end of Transition.

Recommendation(s):

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

1.0 Introduction

1.1 This report covers the work of Trading Standards in relation to preparation for the end of transition from 11pm 31st December 2020 and focuses on the issues, impacts, challenges, and opportunities faced by the service.

2.0 Background

2.1 Kent County Council Trading Standards is a statutory service with a duty to enforce a wide range of criminal legislation covering the trading and farming environment, from manufacturers, importers and producers to retail surveillance and ports. The areas covered are diverse and include counterfeits, fraud and unfair practices, product safety, animal health and welfare, food standards, feed, weights and measures and petroleum and explosive licensing.

2.2 Kent County Council Trading Standards has been significantly involved in preparing for Brexit since the vote to leave the EU in 2016. As much of the current Trading Standards legislation originates primarily from the EU, the service has been well placed to understand the impact on trade in its capacity as both UK regulators and an EU market surveillance authority?

3.0 Government engagement

3.1 Trading Standards continue to be involved in the discussions with the Government in relation to plans for the end of transition through the Border Protocol and Delivery Group (the Cabinet Office unit overseeing the government's plans for the UK border after the transition period), particularly with regard to the Border Operating Model (BOM) which explains how the

Government will operate controls on imports and exports with the EU from 1 January 2021 and its impact on the areas of concern for Trading Standards.

3.2 This includes the Kent Delivery Model Operations Group (KDMOG) consisting of central and local government representatives and industry representatives looking at the operational impacts of new border controls on services such as Trading Standards and the Port Health Authority.

3.3 The Service has also been working directly with Government Departments including the Office of Product Safety and Standards (OPSS) and the Department for the Environment Food and Rural Affairs (Defra), with regards to the areas of concerns for Trading Standards, namely product safety, animal health and feeds.

4.0 Areas of Specific Concern for Trading Standards

4.0.1 There are four specific areas of particular focus for Trading Standards.

- Imports of consumer goods
- Imported feed
- Animal health and welfare
- Business engagement and information

4.1 Imports of Consumer Goods

4.1.1 Product Safety at the borders.

4.1.1.1 Following a review of the increase in imports through the Kent Ports and in preparation for the predicted impact of Brexit, a permanently staffed Ports Imports Compliance Team was created in February 2019. The team, based in Dover, is now effectively managing import referrals, liaising with agencies agents and importers, providing resilience and capacity for the Service. The team's impact can be seen in Appendix 1.

4.1.1.2 So far this year, despite a 60% drop in imports due to national lockdown, the team dealt with 776,541 imports of which 202,949 were refused entry and using the National Projects agreed figure of detriment to society, this equates to £7.5m of detriment prevented so far this year.

4.1.2 Current Demand.

4.1.2.1 With the increasing workload, a new supervisor for the team was recruited to provide effective day to day management of the team. The Supervisor's appointment brings the team to six staff.

4.1.2.2 The supervisor is currently reviewing the existing processes and policies to ensure they can cope with a predicted higher demand rate and to ensure it can be linked to any new national database system.

4.1.3 Post Transition Demands

4.1.3.1 With the publication of the Border Operating Model, Trading Standards will continue to operate as it currently does, checking non-EU products at the Port of Dover and Eurotunnel (at Stop 24, J11 M20) until July 2021. On 1

July 2021 full controls on all imports, including those from the EU, will be stood up by the Government, and these will take place at the new inland Border Control Points, one of which will be at Sevington, Ashford and another possibly in the Dover area.

4.1.3.2 At this time, we are predicting the average number of import referrals will increase to around 5x the current rate which would be between 1,320 - 2,640 referrals a year. Based on the average time each referral takes an Officer to process (requiring liaison with importers and their agents, document checks and occasional physical examination) these levels would require between 6 and 12 additional staff.

4.1.3.3 A second more immediate pressure on the team will be the new inland Border Control Points (BCPs), one of which is confirmed at Ashford Sevington, but at least one other is likely, which will be in operation for July 2021. As the Ports team is currently based in Dover, these new BCPs sites may require them to be relocated at these sites. This could put pressure on the ports team's capacity to deal with goods within the legal time frame and may increase pressure on recruiting additional staff as the team would have to be split to cover the two areas as well as dealing with an increase in referrals.

4.2 Feed Imports

4.2.1 While imported food is covered by port health, animal feed is the responsibility of Trading Standards. Currently there is no inspection and sampling of feed at Dover or Eurotunnel as most feed either comes directly from within the EU or is checked as it passes the first EU border from its country of origin and therefore requires no further checks as it enters the UK.

4.2.2 Initially, with no border control post at Dover or Eurotunnel, high risk feeds and feed that is of animal origin feed should not be landing at either ports (as now). However, if there is no trade agreement, it is possible that we may have illegal imports of feed at the two ports in Kent until 1st July. This may happen where importers of feed from outside the EU, who have their product cleared at the border as they enter the EU, will no longer benefit from this, and the feed would either have to be re-exported or destroyed.

4.2.3 Under the BOM from the 1st July, as Kent will have at least one inland Border Control Point, it will be possible to allow imports of high-risk feed and products of animal origin (POAO) feed that is from the EU to land at Dover and Eurotunnel.

4.2.4 Trading Standards staff will be required to carry out limited checks on documentation and loads, and sample where necessary. This is likely to increase as more importers use this facility through the Short Straits.

4.2.5 This may well create a capacity pressure, as feed is dealt with by a qualified competent Feed Officer, and currently Kent Trading Standards has only two active Feed Officers. These Officers are already carrying out the funded FSA Feed inspections across the farms and feed producers in Kent, carrying out 150 visits in 2019 for which we received £46,769.70. We are working with Defra to fund further Feed Officers, as necessary. See para 5.3.3 below

4.3 Animal Health and Welfare

- 4.3.1 Trading Standards is the lead authority in Kent for animal health and welfare issues. We work closely with the Animal and Plant Health Agency (APHA) who are an enforcement authority (dealing with animal imports and exports) and with Port of Dover Police (who deal with Illegal landings).
- 4.3.2 As we are primarily responsible for disease control and welfare on farms, roads, and at market, delays to domestic livestock traffic has been a major concern (as animal journey times are controlled) with the introduction of managed delays through Operation Brock.
- 4.3.3 The main risk is cattle and sheep exceeding the standard eight-hour journey time, particularly when journeying to Ashford Market. The market takes place every Tuesday and Friday (in the winter) regularly receiving about 500 cattle and 5,000 sheep each time from across the South East and beyond.
- 4.3.4 While the transporter is responsible for checking journey times and have contingencies in place to deal with delays, this will not account for unexpected delays caused by traffic build up. Equally once the animals reach market, the market is responsible for welfare, and has lairage for animals to be rested that are otherwise delayed in travelling to buyers' holdings.
- 4.3.5 To respond to delayed journeys and to be able to seize and remove animals for welfare purposes, we have rented lairage at a farm close to Junction 10 M20, which will take around 100 cattle and sheep.
- 4.3.6 We have also been working closely with Defra and the Kent Resilience Team to prepare contingency plans should there be significant delays impacting wider animal movement across the County, including further potential emergency lairage.
- 4.3.7 Any significant long-term traffic delays will also impact on the welfare of animals on farms, caused by delays in getting feed, treatments, disinfectants, veterinary medicines or indeed vets themselves to the premises.
- 4.3.8 A more recent development is the potential impact on farmers of the Covid-19 restrictions. As businesses such as restaurants and caterers have closed, farmers have lost significant customers for their livestock (e.g. McDonalds purchase 5,000 cattle a day). This has resulted in a reduction in income with increased costs for the extra livestock remaining on the farm, increasing the risk of welfare and disease control issues, which will not be resolved before we end transition.
- 4.3.9 To help cope with these challenges, we are in the process of recruiting two Animal Health Officers (we currently have three) to improve our capacity to deal with the challenges outlined above.

4.4 Business Engagement and Information

- 4.4.1 The Trading Standards Business Advice Team works in partnership with businesses to get things right first time, protecting consumers and protecting businesses from financial and reputational loss. As such the team has been actively engaging with local businesses to ensure that they understand the changes that are coming, and with national figures suggesting that almost half

of all business have so far failed to make any preparations for the end of transition, it is clear that this is a vital message.

4.4.2 Since 2019 we have proactively contacted and engaged with business networks throughout the County including the Kent and Medway Growth Hub, Invicta Chamber of Commerce, the Institute of Directors, Business Improvement Districts throughout Kent, local Trade Associations, and other partnership groups. Through these relationships we have been able to deliver the message of transition preparedness directly to their members through newsletters, member emails, legislative updates, and live presentations, and by providing training on specific requirements.

In October 2019 working with the Invicta Chamber of Commerce we delivered a series of training events to their members on the post Brexit requirements of food legislation, and with the Institute of Directors by participating in a nationally broadcast expert panel Q&A event.

4.4.3 The transition messaging for the first half of this year has been overshadowed by our work to assist local businesses in dealing with Covid-19. During this period working with the Public Protection Commercial and Customer Information Team (CCIT) we developed new ways of working to utilise online resources and exploit social media. An example of this was with the recent 'Here to help' business campaign supporting businesses during Covid-19, resulting in the Public Protection's social media impact reaching 2.5 million residents and business both in and outside Kent

4.4.4 Taking this experience forward, and working with CCIT, we are now stepping up our end of transition campaigns which will focus on four key messages.

- Will you be an EU importer/exporter after transition?
- Are you labelling in the language of the EU state where they will be sold?
- Have you an authorised representative in the EU (their details need to be on the product)?
- Has testing mandated by EU legislation been done in the EU?

4.4.5 We have been consistent in this messaging since 2019, identifying that these will be key issues for businesses trading with mainland Europe. Failure to comply means refused entry to the EU with the goods being detained and examined at ports. Research indicates that examination can cost businesses up to £1,250 with additional charges of up to £250 per day if it is delayed. These costs often outweigh the value of the goods particularly as this will also include costs of reworking or destruction, as well as the reputational and financial loss of failure to deliver on contracts. Our message of preparedness protects Kent businesses and the wider UK economy.

4.4.6 Working in partnership with the CCIT team, we are developing content to be hosted on a new dedicated transition hub hosted on the KCC website. Content currently under development includes:

- Guidance notes explaining the new requirements,
- Videos explaining identified issues for businesses,
- Transition Q&A events, the first of which took place on 28th October.

- 4.4.7 Our social media channels will be providing consistent end of transition messaging designed to raise awareness of potential issues by utilising simple messaging, for example single line statements such as “If you sell your food to an EU member state, it must be labelled in their language”. The simplified message ensures that businesses will be exposed to the message without the need to actively engage with it and to encourage them to ask us for help.
- 4.4.8 We are proactively engaging with all our Primary Authority Partners (these are legal partnerships between local authority regulators and businesses, providing assured and tailored advice on complying with regulations that other local regulators must respect.) to encourage end of transition preparation and we continue to offer advice to businesses who contact us; we expect the number of contacts to increase exponentially as the end of transition approaches.

5.0 Challenges

5.1 Coronavirus (Covid-19)

- 5.1.1 Trading Standards, along with Environmental Health and the Police, is responsible for enforcing restrictions under the wide-ranging Coronavirus emergency legislation. This is an additional duty on top of the existing responsibilities for the Service for which there has been no additional resources provided.
- 5.1.2 During the first wave of Coronavirus and the subsequent lockdown, the Service received over 3,330 referrals from the public, businesses, and the Police, 1,200 of which were allocated for action to Officers. These covered issues such as overcharging, scammers selling fake goods, sanitiser and PPE safety concerns, social distancing complaints, and prohibited shops trading.
- 5.1.3 This has had significant resource implications with 20% of the frontline Trading Standards Officers engaged with this activity.
- 5.1.4 New restrictions following the second wave, along with a push for greater enforcement activity, means Officers are having to balance this urgent area of activity along with the other existing areas of work including end of transition impacts as outlined above.

5.2 Qualified Staff

- 5.2.1 Trading Standards Officers are trained and qualified to carry out a wide range of duties. They must hold a statutory qualification to carry out weights and measures, food standards and feed work. To maintain their competency, they are members of the Chartered Trading Standards Institute, which through its Continual Professional and Personal Development (CPPD) scheme, monitors to ensure that Officers reach their annual 20hours training.
- 5.2.2 However, the staff who are experienced and qualified to carry out these duties are part of an aging workforce. While we have successfully recruited staff from enforcement backgrounds to carry out regulatory and investigative work, it is noticeable that we have not recruited staff to become fully qualified Trading Standards Officers (“trainees”) since 2005.

- 5.2.3 Recruitment has become increasingly difficult as the pool of Trading Standards staff is also diminishing nationally.
- 5.2.4 While the apprenticeship route is available for Regulatory Compliance Officers, this provides only a limited regulatory qualification. Those passing the apprenticeship are still required to take the 3-year qualification to carry out the three statutory areas of work (weights and measures, food standards and feed).
- 5.2.5 The Service is looking in 21/22, to recruit staff as trainee Trading Standards Officers, who would be trained over 3 years to become fully qualified Trading Standards Officers, subject to any budget constraints posed by the authority's wider financial challenges

5.3 Funding of Staffing

- 5.3.1 In preparation for the end of transition, additional Brexit funding was agreed and provided to enable the recruitment of the 6 Ports Team Officers and 2 additional Animal Health Officers.
- 5.3.2 As has already been set out above, it is highly likely that more Ports Team staff will be required to meet the demands of the new Border Control Points, requiring the team to operate across two or more locations.
- 5.3.3 An additional burden is the new duty to provide feed Officers to cover the animal feed imports from July 2021. Funding for these additional roles is being requested from Defra as these are clearly additional demands on the Service. This also requires a long-term investment, as the Officers must train and qualify over a 3-year period to allow them to fully carry out this work, independently of our two existing feed Officers.

5.4 Local Kent Issues

- 5.4.1 The Trading Standards Service is still responsible for ensuring that the residents and businesses are protected, and that Kent has a fair and safe trading environment.
- 5.4.2 The same Officers involved in advising businesses, responding to incidents (particularly doorstep crime and animal health issues), visiting farms, carrying out investigations, inspecting petrol forecourts are those that are also involved in dealing with many of the additional issues raised by the end of transition
- 5.4.3 Between April and September 2020 for example, in addition to import control and the new enforcement duties in response to Coronavirus, the service was involved in -
- Nine ongoing complex investigations involving misdescriptions, fraud and money laundering,
 - Legal processing of six Crown Court cases, two of which are expected to be heard this year,
 - 28 safeguarding interventions where victims lost £49,480 (preventing the loss of a further £93,964

- 200 inspections to businesses, 30 visits to petroleum sites, and 21 weekly visits to Ashford market (generating over 100 follow up activities),
- Eight Food Standards Agency (FSA) funded Feed inspections (as part of the national feed project) and
- Continued support for our existing 50 Primary Authority Partnerships and adding another four, including engaging in over 300 bespoke business advice requests to businesses.

6.0 Opportunities

6.1 Business Advice

- 6.1.1 As a result of the media campaigns, we expect to receive calls for help and assistance from businesses who are looking to export to the EU.
- 6.1.2 While we can signpost them effectively to sources of free advice, we are also able to offer a bespoke service for those businesses wanting greater time and detail. As this is a chargeable service on a cost recovery basis it will increase our income to then help us deliver other parts of the Service.

6.2 Charging for Feed Operations at the Ports

- 6.2.1 Any work carried out on feed imports through the new border control points are chargeable to the importer. This covers the cost of the inspection and sampling of that product, and is on a full cost recovery basis, ensuring any work undertaken is cost effective from the outset.
- 6.2.2 Although we are currently unaware of the levels of checks required to be done by Trading Standards in this area, it is highly likely that as the Short Straits is increasingly used as a convenient route for import into the UK, we could see an increase in this area of work with associated income that would enable us to employ staff to cope with the volume and reinvest in the service.

6.3 New Opportunities

- 6.3.1 As stated above Trading Standards has years of experience in understanding and implementing EU based regulation. This experience puts us in a good position to advise businesses wishing to export to the EU. This is a commercial opportunity for the service, in addition to our current business advice offer.
- 6.3.2 In addition, although we have left the EU, for a third country (which is what the UK will become) to export to the EU, significant regulatory checks need to be in place to provide confidence to the EU that there are adequate controls in place on the production of food, feed and consumer goods. This is a role that will continue to be carried out by Trading Standards for the benefit of Kent exporters

7.0 Equality and Diversity

- 7.1 The existing Equality Impact Assessments underpinning the breadth of the service's work apply to the work and roles described in this paper

8.0 Policy implications

8.1 The report sets out the response to the challenges faced by the end of Transition within existing policy areas for Trading Standards

9.0 General Data Protection Considerations

9.1 A Data Protection Impact Assessment is not needed for this overarching narrative report.

10.0 Financial Implications

10.1 At this time, all eight posts referred to in the report (five Import Compliance Officers, Senior Import Compliance Officer, and two Animal Health Officers) are funded from temporary “Brexit” contingency funds. Further discussion is required to ensure these are permanently funded roles .

11.0 Conclusions

11.1 This report sets out the significant areas of work for Trading Standards as we move towards the end of the transition period and exit the European Union.

11.2 As we have been involved in this process for at least four years, we have recognised the need to be flexible and pragmatic in addressing the continual process of change and development, with identified changes and unknown factors still to be addressed in developing the Services response.

11.3 What has been clear throughout this process is that we can only address these issues if we continue to develop our exiting staff where we can, and recruit where it is critical to meet the identified risk so that the Service can meet its statutory responsibilities.

12.0 Recommendation (s)

Recommendation(s):

The Cabinet Committee is asked to note and discuss the report

13.0 Background Documents

13.1 The Border Operating Model - A guide to how the border with the European Union will work after the transition period.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/925140/BordersOpModel.pdf

13.2 Transition Web Page – Providing information on new rules

<https://www.gov.uk/transition>

14. Contact details

Report Author:

Steve Rock, Head of Trading Standards
03000 414137, steve.rock@kent.gov.uk

Group Head:

Mike Overbeke, Head - Public Protection
03000 413427, Mike.overbeke@kent.gov.uk

Relevant Directors:

Stephanie Holt-Castle, Interim Director Environment Planning & Enforcement
03000 412064, Stephanie.holt-castle@kent.gov.uk

Barbara Cooper, Corporate Director for Growth, Environment and Transport
03000 415981, Barbara.cooper@kent.gov.uk