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Tystiolaeth gan CLILC - LH 08

National Assembly for Wales

Health & Social Care Committee – New
Psychoactive Substances

26th September 2014



WLGA • CLILC

INTRODUCTION

1. The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales, and the three national park authorities and the three fire and rescue authorities are associate members.
2. It seeks to provide representation to local authorities within an emerging policy framework that satisfies the key priorities of our members and delivers a broad range of services that add value to Welsh Local Government and the communities they serve.
3. WLGA welcomes the opportunity to comment on the issue of New Psychoactive Substances (NPS) from a trading standards perspective.

The Wales and England position

4. The WLGA has been informed by the Wales Heads of Trading Standards, the National Trading Standards Board, and the Association of Chief Trading Standards Officers.
5. Local government trading standards services are currently discussing with the Home Office a review of the current legislative, enforcement, health and educational framework as it currently exists.
6. It is recognised that there are information gaps, enforcement gaps, legal complexities and uncertainties which must be addressed to enable the public to be properly protected.
7. The review is expected to make recommendations and comments to strengthen and assist coordinated responses to NPS situations. Local Government is therefore keen to help shape updated and consolidated enforcement guidance from the Home Office in due course.
8. Trading standards services in Wales recognise they have a role to play in educating reputable businesses, and enforcing legislation where there is detriment to consumers, or legitimate business.
9. At the end of this report, there are examples of current investigations which a number of local authority trading standards services are involved in – in conjunction with the police service.

Risk Focussed and Intelligence Led service

10. The Committee will also recognise the current financial context in which trading standards (and other regulatory services such as environmental health etc) operate.
11. These services have taken the biggest hit in terms of budgets, across the local government function – the latest analysis shows cuts equating to 30% for trading standards teams.
12. In order to attempt to maintain service delivery to the public and businesses alike, trading standards teams in Wales have adapted their operational and strategic methods to become risk focussed, and intelligence led.
13. The Integrated Operating Model (IOM) has been developed by the National Trading Standards Board (NTSB) for the benefit of the trading standards profession. It introduces a national intelligence framework to support not only the NTSB to deal with national and regional enforcement needs but also local authorities in their day to day work.
14. At the heart of the IOM is the effective use of intelligence. It aims to achieve a common understanding of the business processes that will help better coordinate enforcement efforts nationally, regionally and locally in England and Wales, focusing on agreed priorities and the issues causing significant consumer and business detriment.
15. Through a problem solving approach, trading standards will be able to effectively allocate resources to target the greatest problems. This will already be a familiar approach to trading standards, and is being used to help shape the development of local authority services.
16. The IOM is about the identification and assessment of threats, the management of prioritised threats through enforcement and other activity; and the review of the effectiveness of measures taken. It is designed to provide a structured approach to decision making and resource allocation.
17. Local government via its trading standards teams have therefore responded to incidents relating to NPS where intelligence has been received and the risk has been identified and assessed.

Capacity and market surveillance

18. What is less clear however is whether trading standards services are adequately resourced to proactively police the business landscape, whether on the high street, or on-line, where no intelligence of a threat has yet been received – ie market surveillance activity.

19. Enforcement falls behind the curve of preventing dangerous new products entering the market place, where resources only permit reactive activity – the outcome often being the newspaper headlines and the call for regulation following deaths or serious injuries.
20. Comparisons can be drawn to the “horsemeat scandal” and other similar market failures. A surveillance and proactive sampling regime is at least part of the answer to regulating market activity which prevents incidents occurring, and before they hit the headlines, hit public health, and hit public confidence.
21. However, trading standards in Wales is joined up with, and is a part of the ongoing review and improvement of the enforcement landscape relating to NPS across England and Wales.

Enforcement examples from trading standards in Wales

22. *"We are carrying out an investigation into a shop that has sold "NPS". The authority has worked closely with the police who agreed to analyse the substances seized and test purchased. The results have indicated the presence of Class A Controlled Drugs. Whilst the police are unable to proceed (due to the absence of any 'intent' to supply); Trading Standards has continued the investigation using its responsibilities under the Consumer Protection from Unfair Trading Regulations 2008 due to the prohibition on traders for falsely presenting a product as lawful when it is not. The investigation continues".*
23. *"Legal highs being sold from a retailer - awaiting more info on this but likely to be joint visit with police - and would look at wording/marketing of products, test purchase, before deciding on the most applicable legislation to consider enforcement action under."*
24. *"NOS laughing gas – we are considering the options of a combination of street trading / general product safety regulations and the police."*
25. *"We do have a retailer and samples were analysed but not found to contain any illegal substances. This was several months ago."*
26. *"We have a trader that I am currently dealing with, who provides virtual mailbox addresses and a mail forwarding service. His address is being used on legal high packs, although the actual business is not at his address. He just receives mail and packages and forwards them on."*
27. *"I have a current case with a problem trader and repeated visits to the store -seizing goods with the Police. In total 3 seizures have been made from the premises and goods have been taken on each occasion with the trader not making any attempts to ensure the products were compliant. We are looking at offences of Labelling requirements as per CHIP (Chemicals (Hazard Information and Packaging for Supply)*

Regulations) and CLP (Chemicals Classification, Labelling and Packaging) requirements. We have asked the analyst to report on dangerous or toxic ingredients. Some products have undergone analysis and have highlighted medicinal products and should be labelled in accordance with MHRA – license number etc. however clearly not marked with this, we are looking at running CPR charges against those items for creating the impression the product can legally be sold when it cannot (Schedule 1).”

- 28.** *"I have been dealing with this issue over the last couple of years due to a local villain causing havoc from a shop. I adopted an approach of visiting a few times a week and encouraging the adoption of age restricted sales and only selling to over 18's by using a refusal register to record sales etc. The police also kept raiding the shop and seizing all of the stock. This was submitted for analysis on the hope that there would be some controlled drugs found in the mixture. It seems to have quietened down in recent months but there was a meeting last Monday with the local plus a number of law enforcement representatives and health professionals."*

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