

**AGENDA MANAGEMENT SHEET**

**Name of Committee**                      **Community Protection Overview and Scrutiny Committee**  
**Date of Committee**                      **18<sup>th</sup> November 2008**  
**Report Title**                                      **Trading Standards Anti-Counterfeiting Enforcement**

**Summary**  
 Prior to 2007 anti-counterfeiting enforcement was not a key priority for the Trading Standards Service. Surveys carried out in 2007 revealed significant volumes of counterfeit products openly being offered for sale at Warwickshire’s weekend markets and car boot sales, prompting a fresh approach.

In 2007/08 the Trading Standards Service received £39,686 additional funding from Central Government for anti-counterfeiting enforcement work. The additional funding has been utilised to bring dedicated, specialist resource to this area. An enforcement strategy was devised utilising the latest enforcement methods to persuade market organisers to work with Trading Standards Officers to rid markets of illegal merchandise.

This report provides an update on progress made to date and outlines further work needed in this area.

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**For further information please contact:**

**Would the recommended decision be contrary to the Budget and Policy Framework?**

No.

**Background papers**                      None.

**CONSULTATION ALREADY UNDERTAKEN:-**                      Details to be specified

Other Committees                       .....

Local Member(s)                       Not Applicable

Other Elected Members                       Councillor R Chattaway, Councillor K King, Councillor C Davis, Councillor B Kirton, Councillor G Collett, Councillor B Longden

- Cabinet Member  Councillor C Hayfield, Councillor R Hobbs
- Chief Executive  .....
- Legal  Alison Hallworth, Adult and Community Team Leader  
Ian Marriott, Community and Environmental Legal Services Manager
- Finance  Chris Norton, Strategic Finance Manager  
Paul Walsh, Financial Services Manager
- Other Chief Officers  .....
- District Councils  .....
- Health Authority  .....
- Police  .....
- Other Bodies/Individuals  Michelle McHugh, Scrutiny Officer

**FINAL DECISION YES**

**SUGGESTED NEXT STEPS:**

Details to be specified

- Further consideration by this Committee  .....
- To Council  .....
- To Cabinet  .....
- To an O & S Committee  .....
- To an Area Committee  .....
- Further Consultation  .....

**Community Protection Overview and Scrutiny Committee  
– 18<sup>th</sup> November 2008**

**Trading Standards Anti-Counterfeiting Enforcement**

**Report of the Strategic Director of Adult, Health and  
Community Services**

**Recommendations**

The Committee are asked to:

1. Consider and comment on the progress made by the Trading Standards Service in reducing the level of counterfeit products offered for sale at Warwickshire's markets
2. Endorse continued anti-counterfeiting work in accordance with the strategy outlined in the report
3. Recommend that the annual funding from Central Government for anti-counterfeiting enforcement continues to pass directly to the Trading Standards Service so that this work can continue

**1. Why is the enforcement of anti-counterfeiting laws important?**

- 1.1 A key priority of Warwickshire's Trading Standards Service is to support business and take action who trade unlawfully and negligently<sup>1</sup>. This was developed in line with the findings of the Rogers Review of Trading Standards Priorities<sup>2</sup> and Gower Review of Intellectual Property Crime<sup>3</sup> that identify counterfeiting as a key concern nationally.
- 1.2 Intellectual property (IP) crime involves the production, and sale of counterfeit goods which;
  - affects any item that can readily copied and sold off as the real thing, including films, clothing, soft drinks, alcohol, cigarettes and pharmaceuticals.
  - undermines the commercial viability of legitimate business and traders which in turn can negatively effect the creation of vibrant town centres.
  - will result in reduced tax revenues
  - very often results in consumers receiving inferior goods that may be unsafe with little opportunity for redress in the event of problems.
  - can be linked with other criminal activity such benefit fraud, illicit drugs

<sup>1</sup> Priority 3 Warwickshire Trading Standards Service Priorities 2008-9

<sup>2</sup> National enforcement priorities for local authority regulatory services March 2007 Rogers Review Peter Rogers [http://archive.cabinetoffice.gov.uk/rogersreview/upload/assets/rogersreview/rogers\\_review\\_2007.pdf](http://archive.cabinetoffice.gov.uk/rogersreview/upload/assets/rogersreview/rogers_review_2007.pdf)

<sup>3</sup> Gowers Review of Intellectual Property December 2006 [http://www.hm-treasury.gov.uk/media/6/e/pbr06\\_gowers\\_report\\_755.pdf](http://www.hm-treasury.gov.uk/media/6/e/pbr06_gowers_report_755.pdf)

and people trafficking.

- 1.3 It is estimated that this sort of crime costs the UK economy £9 billion a year<sup>4</sup>.
- 1.4 Local surveillance in 2007 indicated the sale of counterfeit goods within Warwickshire was prevalent. The trade in fake goods can occur in a variety of environments but was predominantly evident at markets and over the internet. Within the county there are 8 regular major markets containing approximately 3,500 stalls. These markets operate at weekends and on bank holidays.
- 1.5 Under the Trade Marks Act 1994<sup>5</sup> and the Copyright Designs and Patents Act 1988<sup>6</sup> there is a duty for every Local Authority to enforce this legislation in their area.

## **2. Warwickshire's Enforcement Strategy**

- 2.1 From April 2007 the Council was given new funding in the form of an annual grant of £39,686 for counterfeit enforcement as a result of the Gower review. In 2007 and 2008 this money was passed from the RSG to the Trading Standards Service to resource local anti-counterfeiting enforcement work.
- 2.2 This additional funding has enabled the Trading Standards Service to implement a range of targeted enforcement activities to tackle the production and sale of counterfeit goods in Warwickshire. These broadly comprise:
  - meeting with each one of the owners/organisers of Warwickshire weekend and bank holiday markets to raise awareness of counterfeiting problems and asking them to sign up to a Code of Conduct for their markets (July 2007)
  - conducting a sustained 3mth operation involving a large number of staff working both overtly (through announced inspections) and covertly (posing as customers) to gauge the scale of the problem and send a strong message to market traders that trading in counterfeit goods will not be tolerated in Warwickshire (July – September 2007)
  - employing a dedicated enforcement officer (January 2008) to work in partnership with the local weekend and bank holiday markets on an ongoing basis; reinforcing the message that both individual market traders and market organisers will be expected to remain vigilant in checking the legitimacy of stock offered for sale at markets in future
  - setting up a covert and evidentially traceable computer, enabling enforcement officers to pose as customers purchasing counterfeit goods offered for sale over internet.
- 2.3 Perhaps the most vital aspect of the above strategy is sustainability. An important additional benefit delivered by the introduction of a specialist anti-counterfeiting enforcement officer is the ability of other officers to concentrate on Doorstep Crime and Rogue Trading, a traditional priority of Trading Standards.<sup>7</sup> Only by encouraging the market organisers to adopt a “zero

<sup>4</sup> UK Intellectual Property Office <http://www.ipo.gov.uk/crime/crime-whatism.htm>

<sup>5</sup> Trade Marks Act 1994 Section 93 (1)

<sup>6</sup> Copyright Designs and Patents Act 1988 Sec 107A

[http://www.statutelaw.gov.uk/legResults.aspx?LegType=Act+\(UK+Public+General\)&title=copyright&Year=1988&searchEnacted=0&extentMatchOnly=0&confersPower=0&blanketAmendment=0&TYPE=QS&NavFrom=0&activeTextDocId=2250249&PageNumber=1&SortAlpha=0](http://www.statutelaw.gov.uk/legResults.aspx?LegType=Act+(UK+Public+General)&title=copyright&Year=1988&searchEnacted=0&extentMatchOnly=0&confersPower=0&blanketAmendment=0&TYPE=QS&NavFrom=0&activeTextDocId=2250249&PageNumber=1&SortAlpha=0)

<sup>7</sup> Priority 1 Warwickshire Trading Standards Service Priorities 2008-9

tolerance” policy towards counterfeiters can a higher level of ongoing compliance can be achieved with this lower level of Trading Standards intervention.

### **3. Progress Made**

- 3.1 The penalties available under the Trade Marks Act and Copyright Designs and Patents Act are unlimited fines and up to 10 years imprisonment. This indicates the seriousness these offences are viewed with.
- 3.2 A variety of tools are being employed to secure compliance with this legislation. These include liaison with market organisers and advice/warnings to traders. However where the matters appear to be of a serious nature robust targeted formal action has and will be undertaken. This is particularly relevant where previous advice and/or enforcement action has been disregarded.
- 3.3 Actions to date have resulted in:
- 184 market visits by Trading Standards enforcement staff to 14 different markets and car boot sales. Some of these were overt (announced inspections to advise traders or seize counterfeit goods) and some covert (posing as customers to build intelligence)
  - Over 24,500 illegal items seized in 2008 alone
  - 10 individuals arrested to effectively investigate some of the most serious matters
  - 5 simple cautions issued (under Home Office Guidelines)
  - 7 formal undertakings as to future conduct
  - 31 informal warnings
  - 18 cases still under investigation/pending further action
  - Approximately 90% perceived reduction in the level of counterfeit goods openly offered for sale at Warwickshire’s largest weekend market.<sup>8</sup>
- 3.4 Trading Standards now routinely liaise with the Regional Intelligence Unit on all matters relating to counterfeit goods and rogue traders. This ensures resource is effectively targeted and deployed in line with all available intelligence as to prolific offenders.
- 3.5 Links with Warwickshire Police have improved following Joint Operations on counterfeiting. Developing this relationship has also enabled effective action to be taken on new legislation affecting realistic imitation firearms at one Warwickshire market. The partnership working was initiated following a dramatic increase in reported firearm related incidents when the market was in operation. As a direct result 28 imitation firearms were seized. Warwickshire Police have since confirmed that the level of firearms incidents attended in this area decreased dramatically following this joint action.
- 3.6 High profile seizures have the immediate effect of removing infringing items from the marketplace but also sent out a clear message to other potential offenders that action is being taken. It further reassures legitimate traders that

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<sup>8</sup> figures taken from officers’ accounts of the number of stalls offering counterfeit goods for sale July 2007:October 2008

the Council is committed to a 'Level Playing Field' and reducing crime and the fear of crime. Such decisive action should further assist in the prevention of the County developing into a 'sinkhole' attracting traders from other areas wanting to sell counterfeit goods.

#### **4. Next steps**

- 4.1 Despite the decrease in visibility the sale of counterfeit goods remains an active problem within Warwickshire. The modus operandi of these problem traders is evolving in an effort to evade detection and maintain the sale of illegal goods.
- 4.2 Trading Standards will continue to monitor the Markets of Warwickshire and take action where appropriate. Engagement will continue to be sought with market organisers to assist in fight against the sale of counterfeit goods.
- 4.3 Enforcement techniques employed by Trading Standards to investigate alleged offences and secure compliance with counterfeiting legislation will continue to be developed in conjunction with other enforcement agencies where appropriate.

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October 2008