

TRAFFIC, ENVIRONMENT & COMMUNITY SAFETY SCRUTINY PANEL

MINUTES OF A MEETING of the Traffic, Environment & Community Safety Scrutiny Panel held on 5 March 2010 at 2pm in Conference Room L, Second Floor, Civic Offices.

(NB These minutes should be read in conjunction with the agenda for the meeting, which can be found at www.portsmouth.gov.uk).

Present

Councillors Caroline Scott (Chair)
Mike Blake
Margaret Foster
David Fuller
Richard Jensen
Jim Patey

Also present

Paul Hunt, Head of Environment & Public Protection Service
Robert Briggs, Trading Standards Manager
Peter Emmett, Trading Standards Intervention Manager
Zorica Lys, Principal Trading Standards Officer
Chris, 'Edge' project volunteer
Peter, 'Edge' project volunteer
Councillor Luke Stubbs
William Murphy, Highways Manager
Dominic Kirby, Risk Manager
Peter Nail, Legal Services Team Leader

11 Apologies for absence (AI 1)

No apologies for absence were received.

12 Declarations of interest (AI 2)

Councillor Fuller declared a personal interest. The nature of his interest being that he knew a number of the 'Edge project' volunteers.

13 Minutes of previous meeting (AI 3)

RESOLVED that the minutes of the Traffic, Environment & Community Safety Scrutiny Panel meeting held on 12 February 2010 be agreed as a correct record.

14 Review of Trading Standards (AI 4)

The Trading Standards Manager distributed copies of the draft Trading Standards 2010/11 Service Delivery Business Case to the panel. He made reference to pages 16 and 17 which contained a financial impact assessment breakdown. He was pleased to inform the panel that Trading Standards had added £34,270,144 worth of value to the city's economy, rather than the previously estimated £15,000,000. The Office of Fair Trading had helped to collate this figure, which was felt to be robust.

The panel welcomed Peter and Chris, 'Edge' project volunteers, who explained how they had become involved with Trading Standards.

Involvement had begun in 2007, after Zorica Lys, Principal Trading Standards Officer, had visited the Frank Sorrel centre to talk about mystery shoppers, the 'Protect Project' and how individuals with learning difficulties are treated by shop staff in the city. After attending several meetings, the Principal Trading Standards Officer had gained the trust of the Frank Sorrel Project members, which resulted in Chris and Peter joining the 'Protect Project' group as mystery shoppers.

Their initial findings had shown that a number of shops, both large and small, had treated individuals with a learning disability poorly, often through a lack of knowledge of how to treat or communicate effectively with them. Reactions had varied from these individuals being followed around the shop to simply being ignored. In some instances shop staff had tried to deny these individuals their rights, but most sub-standard treatment had been down to a lack of knowledge.

Following on from this research, a polite request card had been produced to inform shop staff how to treat individuals who have a learning disability and to remind them of the rights that these individuals have under the Sale of Goods Act 1979. After reading the card, unhelpful retailers generally changed their attitude. It was felt beneficial that the card bore the Portsmouth City Council logo, as this elevated its authority with retailers.

Peter and Chris enjoyed working with Trading Standards and were pleased with the results that had been achieved with this collaborative work. In addition, they praised the work of the Principal Trading Standards Officer in involving people with learning disabilities with the service. Her close involvement made them feel that she was now part of their 'group family'.

The panel welcomed Peter Emmett, Trading Standards Intervention Manager, who explained how counterfeit goods were dealt with in the city.

The panel was informed that Trading Standards would only intervene when the sale of counterfeit goods caused a high level of consumer detriment or raised concerns regarding public safety. Currently, Portsmouth did not have a high level of counterfeit goods, but this was monitored and recent intelligence had indicated that larger scale counterfeiting was on the increase.

Portsmouth did not have a large audience for counterfeit goods because there were no large markets, where such goods were often sold. However, car boot sales in the city were monitored. The last large scale sale of counterfeit goods in the city had been during the FA Cup final, won by Portsmouth Football Club, in 2008. During this time the city had been flooded with counterfeit goods, such as scarves and hats from sellers who had been drawn to the city from all over the country. Many of these sellers had been very aggressive and a number of seizures were made. This episode demonstrated how a local company, in this case a football club, could be affected. Every counterfeit item sold had potentially taken the sale of a

genuine item away from the football club, thereby losing it revenue. In addition, this money had also been lost from the city, as in a lot of instances it went to a seller based in another part of the country.

Trading Standards operated on an intelligence led basis and collaborated with the public, Police and trademark holders. In late February 2010, Trading Standards had acted on intelligence received and seized £30,000 worth of counterfeit clothing from a retailer in the Cascades shopping centre. This demonstrated that, although more commonplace, the sale of counterfeit goods was not isolated to market stalls. It could take place at stores in shopping centres and on the High Street.

The panel learnt that counterfeiters traditionally traded in products such as DVD's and CD's, which was known as low level counterfeiting. However, products with safety implications such as car parts, food and even aircraft components had been known.

Internationally, counterfeiting was estimated to cost G20 governments and consumers over €100 billion every year and approximately €62 billion in tax revenues and higher welfare spending. The predicted additional cost to health services in the G20 to treat injuries caused by dangerous fake products was estimated at €100 million.

In the UK, the total cost in terms of lost taxes and higher welfare spending is €4.1 billion. These figures are all conservative estimates taken from the May 2009 report 'The Impact of Counterfeiting on Governments and Consumers by Business Action to Stop Counterfeiting And Piracy (BASCAP)

Understandably, counterfeiting is seen as a lucrative crime by serious criminals and is often related to other criminal activity, such as drugs.

PCC has a statutory duty to enforce Section 93 of the Trade Marks Act 1994, regarding the unauthorised use of a Trade Mark. The panel was informed that the power of a Trade Mark should not be underestimated, as they appeared on almost every product and were very ferociously guarded by their owners. The use of a Trade Mark without the permission to do so is a criminal offence and most big brands employed Brand Protection Officers to protect the company's interests. Companies had the power to either take civil action, or to refer the matter to the Police.

Most counterfeit goods within the city were low level, such as DVD's. Operation Mississippi sought to tackle this and on the day of the meeting two cars were patrolling the city looking for rogue traders. Examples of counterfeit DVD's collected from a street seller in the city were shown to the panel, along with a counterfeit video camera.

The counterfeit DVD's were contained inside a foil wrapper, which had the recognisable cover art and title of the film printed on the outside. The DVD inside was obviously counterfeit, having been recorded on a blank DVD-RW disc.

The video camera, however, had been very professionally produced and included a well printed box, instruction manual and warranty card. This item had been purchased at a one-day sale in the city and sold at a price that would lead most people to assume that it was the genuine article being sold at a discounted price; perhaps as an ex demonstration model or customer return. After studying the camera, the panel felt that it would be almost impossible for the average consumer to know that it was counterfeit.

In response to questions, the panel was informed that:

- In serious cases the people involved could go to prison. The sellers of counterfeit golf clubs being sold on ebay had recently been successfully brought to justice following an investigation by Havering London Borough Council. This had been an international business and the largest operation of its kind to be investigated by a local authority Trading Standards Service. All those found guilty had received custodial sentences.
- Anecdotal evidence had indicated that some people who sold DVD's on the street were illegal immigrants, and did so in order to pay the criminal gang that brought them to the UK. This is an example of how an apparently minor crime could front something more serious.
- The last Police prosecution in the city for a Trading Standards offence had been in 2006 and involved counterfeit sports clothing. The fine imposed was £5,000. A serious breach could lead to prison, but the majority of cases incurred a fine.
- It was hard to stop street sellers from going back onto the street to continue selling counterfeit goods. However, not many existed in the city, due to the hard line taken by Trading Standards early on.
- The main focus of Trading Standards was where consumers had been unknowingly duped into purchasing counterfeit goods. Illegally downloading material was less of a concern, as those downloading this material were generally aware that they were doing something illegal.
- PCC worked with Trading Standards South East Ltd, with regard to regional intelligence. This could include counterfeit goods coming into the city from London, but the panel was informed that very little actually did. Portsmouth Trading Standards did however have the power to prosecute a seller based outside of the city, if the crime had been committed in Portsmouth.
- A lot of the sellers were provincial and not based in London. The fact that a lot of goods were made in the Far East and shipped to the UK meant that sellers could be based anywhere. Despite being a port, Portsmouth was not a first point of entry into the EU. This meant that it was unlikely for counterfeit goods to enter the UK, or the EU, via the city.
- The results from the 2010 'Scamnesty' initiative were still being collated, but there had been a lot more respondents than in the previous two years. The 2009 'Scamnesty' had attracted over 300 responses and the 2008

'Scamnesty' had only attracted about 10 responses.

- Trading Standards did not have any evidence to show that counterfeit or illegal fireworks were a problem in the city. The panel was advised that there was a difference between the illegal sale of fireworks and fireworks that did not meet safety standards. There were different categories of fireworks, Category Four being for professional displays only and unsafe for members of the public to use.

The panel discussed the following conclusions and recommendations for possible inclusion in its report for Cabinet:

- The panel was impressed with the information that it had received and commended the pro-active stance taken by Trading Standards. Particular mention was made to the Edge Project, the training given to newly licensed alcohol retailers and the collaborative work to promote equality for consumers with learning difficulties. The panel felt that an increased capacity would allow the service to expand these initiatives, in particular, extending the alcohol training pack to existing licensed retailers in the city.
- The panel felt that Trading Standards had done an excellent job in promoting itself both within the Council and with the public.
- The panel was encouraged by and commended the continuing success of the Scamnesty initiative.
- The panel noted that scams were becoming more sophisticated, such as the quality of some of the counterfeit goods on the market
- The panel felt that further publicity geared towards members of the public would be beneficial. Suggestions for publicity included, 'Flagship' magazine, community newsletters and newspapers, local websites and Neighbourhood Forum meetings.
- The panel fully endorsed the proposal for a separate Trading Standards company to be established and that TSSEL's generous offer to give guidance in setting up this company be taken.

15 Review into the hazards posed by icy pavements in the city

The Chair welcomed the Highways Manager, Risk Manager and the Legal Services Team Leader to the meeting.

The panel considered the draft project brief for its review into the hazards posed by icy pavements in the city, which had been included within the agenda for the meeting and

RESOLVED that the draft project brief be approved.

The Highways Manager reminded the panel that the council has a Winter Operational Plan, which had been drafted in consultation with, and distributed to, all Councillors. A new plan was being drafted and issued in September

2010, which would name footways and roads to be treated and cleared in the event of heavy snow. However, only principal routes would continue to be treated and it would be very unlikely for residential access roads to be included.

Regarding the snowfall experienced in January 2010, the panel was informed that it was unusual for the whole country to be affected and for the snow to remain on the ground for such a long time. Due to this situation depleting salt supplies, the Government had taken control of all of the salt supplies in the country and allocated it to local authorities. Portsmouth, like all other authorities, did not receive enough salt and resorted to using a mix of 50% salt and 50% grit.

During the heavy snowfall and unusually prolonged freezing conditions experienced in early January 2010 the Cabinet Office had issued guidance to local authorities, including the following passage on Health and Safety:

“There is nothing in Health and Safety legislation to prevent a person taking sensible steps to clear a pathway to improve the situation, nor should anybody who volunteers to support their community feel that are in danger of being sued and put off wanting to help others”

The Risk Manager did not feel that this statement was entirely correct, although he did support the view that residents and businesses clearing pavements was useful. However, he pointed out that if their efforts made the situation worse, they could be sued. He did not wish to discourage people from helping, but felt that people should be aware that they could be sued, if they did not use common sense and clear snow in an appropriate way. He gave an example of inappropriate snow clearing that he had witnessed, where a lady had cleared snow on steps with boiling water, which subsequently froze.

The Legal Services Team Leader agreed with the Risk Manager and believed that the council should advise people to clear snow, but in an appropriate way. In addition, he was not aware of any cases where there had been a successful prosecution on Health and Safety grounds against somebody who had cleared snow.

It was unfortunate that Colas had given advice to the public that they should not make any efforts to clear snow, as they could be held personally liable for any resulting accidents. This advice had been incorrectly attributed to the council and reported in local media, as well as in the Daily Mail national newspaper.

The panel was assured that the Emergency Planning Team had met to discuss how the council handled the severe weather in January 2010 and a number of improvements had been suggested and taken on board. January had seen the most prolonged spell of freezing conditions in the UK for 29 years and it would be fair to say that the council, along with the majority of other councils in the UK was caught off guard. A key improvement to be made would be better communication with the public.

The panel made a number of comments, including:

- The emphasis on self help raised concerns, as this did not appear to accord with the winter maintenance plan. It was felt that the main roads should have been salted as soon as the snow started to fall. One of the problems was that shops could not restock with salt and other supplies once they had run out, resulting in people not being able to help themselves.
- The reinstatement of grit bins was supported by a number of panel members;
- Better communication would be required for similar situations in the future, perhaps via local radio;
- The council should make efforts to better educate residents in advance of winter, to enable them to better prepare and help themselves more. This could perhaps be done via 'Flagship' magazine.
- The Highways Manager suggested that the next winter operational plan could go through scrutiny for comment, before it is agreed.

16 Dates of future meetings (AI 5)

The date of the next meeting was scheduled for Friday 26 March 2010.

The meeting closed at 4pm