

Response to Request for Information

Reference FOI 001820
Date 3 January 2018

Tobacco and Related Products Regulations 2016

Request:

I would like to know how many instances of non-compliance with the Tobacco and Related Products Regulations 2016 as it relates to e-cigarettes, have been investigated by your Trading Standards department following the full implementation of the legislation in May 2017? How many of these investigations have been subsequently followed by enforcement action, and what form did any enforcement actions take?

As part of our enforcement response to these regulations we have carried out eight visits to retail suppliers. During the visit we checked for:

- Compliance with the Tobacco and Related Products Regulations 2016 -as it relates to e-cigarettes
- Compliance with the plain packaging requirements
- Compliance with the rules on the visibility of tobacco products
- Statutory tobacco notice
- Presence of statutory tobacco notice
- General compliance with age restrictions legislation
- Extent of compliance with underaged sales precautions

A pleasingly high level of compliance was found. The only three instances issues of non-compliance were:

- Tobacco was found on view
- Failure to display a tobacco notice
- Tobacco on view and Hand Rolling Tobacco sold in non-prescribed quantities

Each non-compliance was at separate premises and the traders were given a warning at the time of the visit and made to rectify the non-compliance.

The above is of course an indication of the level of activity not of the number of investigations. These actions do not amount to what we would term investigations as they were initiated without complaints, haven't involved taking witness statements or using any other powers of investigation. However, they are a true reflection of our work in this area.

Additionally, how many reports of non-compliance with the Tobacco and Related Products Regulations 2016 as it relates to e-cigarettes have been received by your Trading Standards department from consumers or other businesses/organisations in the same time period, how many of these reports have been actioned, how many of these investigations have resulted in enforcement action, and what form did any enforcement actions take?

With reference to your above question, I can confirm that the Council holds information falling within the description specified in your request. However, the Council would consider that much of the requested information falls into the class of information collected for the purposes of investigations and proceedings the Council is required to conduct, namely in this case the investigation of Tobacco and Related Products Regulations 2016 (as it relates to e-cigarettes).

The Council considers thus that the provisions of Section 30(1) – relating to criminal investigations and proceedings conducted by public authorities is engaged. This is one of the Act's qualified exemptions.

When considering the application of this exemption the Council would consider the public interest in disclosure demonstrating openness and transparency of process and furthering the understanding of its business to the wider world.

Set against this however, the public interest in non-disclosure is served by the need to protect the investigative integrity of its processes and those individuals (witnesses, relatives and friends for example) who may be compromised by disclosure to the wider world (which is how any disclosure under the Act must be viewed).

Disclosure of the Councils investigations process would also compromise the conduct of future investigations by revealing processes followed and would add to the sum of criminal knowledge available to the wider world. This is considered to be a stronger consideration and no disclosure will be made in this instance.