

REPORT TO: Safer Policy and Performance Board
DATE: 12th September 2017
REPORTING OFFICER: Director of Public Health
PORTFOLIO: Environmental Services
SUBJECT: Consumer Advice
WARDS: Borough wide

1.0 PURPOSE OF THE REPORT

- 1.1 The report describes the work of the Trading Standard's consumer advice service, explains how it works with the national Citizen's Advice Consumer Helpline and provides some case studies from the last financial year.

2.0 RECOMMENDATION: That the report be noted.

3.0 SUPPORTING INFORMATION

3.1 The consumer advice landscape

- 3.1.1 In the early 2000s the Department of Trade and Industry created Consumer Direct, a national helpline providing the first response advice on behalf of Trading Standards Services. A change in government in 2010 saw the responsibility for delivering the helpline transfer to Citizens Advice (NACAB as was), the service was re-named to the Citizens Advice Consumer Helpline but the commercial contractors remained responsible for providing the service. Citizens Advice decided to undergo a tender exercise when the commercial contracts were up for renewal, restricting applications to local Citizens Advice bureaux.

The tender exercise was completed in the autumn of 2016 and the service began to transfer to the new providers (8 centres in total – 2 large call centres and 6 smaller ones) in February 2017. The transition is now complete. All staff working in the new service are employees who have undergone specific training for the Helpline, there are no volunteers and generic CAB staff will not be used on the Helpline.

3.2 How Trading Standards works with the Citizens Advice Consumer Helpline

- 3.2.1 The helpline provides initial advice to callers who have a consumer advice problem and the details of all calls are added to a national

database. This is particularly important so that Trading Standards can get a national picture of what's going on. When callers require complex advice they are referred to their local Trading Standards for that advice. In the majority of cases the helpline can provide this initial advice over the phone without having sight of documents etc.

3.2.2 When there is an allegation or suspicion that a criminal offence may have been committed the helpline notifies the relevant Trading Standards service. Trading Standards evaluate such cases and decide whether or not action can or should be taken - the investigation or otherwise of any criminal aspect to a complaint will not have any bearing on the ability of a consumer to pursue their civil claim. Individual complaints do not necessarily lead to immediate enforcement action as sometimes a number of complaints are needed to take effective action. The information is, however, valuable intelligence allowing Trading Standards to properly prioritize their activities. In general, Trading Standards will only contact the consumer if we need further information or if we need to see documents or other evidence.

3.2.3 The Trading Standards Service receives thousands of complaints each year, working in this way with the helpline allows us to concentrate our support on the vulnerable, and those consumers who need our help the most, whilst ensuring that all receive a level of advice to enable them to resolve the issue independently. It also allows Trading Standards to focus our regulatory work on those traders who cause the most detriment to other businesses and consumers in the Borough.

3.2.4 Halton's consumer advice service provides advice and support tailored to the needs of the consumer. In some instances the consumer will only need expert advice to resolve the dispute with the trader. Other cases will require higher levels of support including letter-writing or contacting the trader on the consumer's behalf. Wherever possible the service tries to assist parties to resolve disputes and avoid court action. Where such a resolution is not achieved the service can assist consumers with the court process or represent the consumer in court where the consumer is unable to represent themselves.

3.3 The law that applies when you buy goods and services

3.3.1 Since 2015 there have been some significant changes to consumer legislation which were intended to make consumer rights simpler and clearer. Even so, this remains a very complex area of law.

3.3.2 The rights that a consumer has depends upon the type of contract they have (for goods, for goods and services or for services only), the time that has elapsed since they made the contract or were supplied with the goods or service and the way that the contract was made (on the trader's premises, in their home or by distance methods such as online, postal or over the phone).

3.3.3 In some instances the consumer has the responsibility to prove that the goods or service is faulty and in other situations the trader has this burden of proof.

3.3.4 Generally, if a trader visits a consumer at home and a contract is made or if a consumer enters into a contract via distance means, the consumer is entitled to a 14 day cancellation period and should be informed of this at the time the contract is made. If the consumer is not given the cancellation notice they are entitled to cancel the contract (at any time up to 12 months and 14 days after the contract was made), making the goods available for the trader to collect and they don't have to pay for any services that the trader has provided under the contract. N.B. the legislation exempts specific goods or services from the right to cancel so a right to cancel contracts concluded by distance or off-premises means cannot be assumed.

3.3.5 If a trader misleads the consumer or uses an aggressive practice to entice them into a contract the consumer may have additional rights:

- A full refund within 90 days of the contract being made
- The right to receive a discount of between 25% and 100%(depending on the amount of harm and the impact on the consumer)
- The right to claim damages for additional losses or harm they have suffered.

The adviser will have to consider how influential the trader's act was on enticing the consumer to enter into the contract because the above rights are only available if the trader's action was a significant factor in the consumer's decision to enter into the contract.

3.3.5 Where a consumer has been unable to resolve a dispute with a trader they have the right to take a claim in the Small Claims Court. The system is designed so that consumers can take the action themselves without the need of a solicitor. In reality, it can be very difficult to navigate the Small Claims process for non-professionals in cases which involve disputes over whether goods or services are faulty because there are approximately 50 civil procedure rules supplemented by practice directions. Generally the more complex the case e.g. those requiring expert reports and witnesses, the more complex the process is.

3.4 **Performance of Halton Trading Standards Consumer Advice service**

3.4.1 A satisfaction survey of service users is undertaken quarterly which shows that consistently over 98% of users are either very satisfied or

satisfied with the service they have received (although it should be noted that the response rate is fairly low).

After contacting the service, respondents say they benefitted from the following:

- Reduced worry and stress (70%)
- Avoided paying extra bills and charges (22%)
- Avoided extra postage costs or telephone charges (13%)
- Saved time (39%)
- Reduced time of work (22%)
- Felt better able to deal with a similar problem in the future (97%)

3.4.2 Responses to the satisfaction surveys provide an indication of the profile of service users:

- 91% are 50 or over
- 36% are 70 or over
- 39% are disabled
- 16% are carers

3.4.3 The satisfaction survey provides an option for respondents to make comments. Respondents have told us:

'I found the T (*trader*) appeared more responsive once TSD (*Trading Standards Department*) became involved'

'Thank you so much for your help, it has been invaluable and I am so grateful that with your understanding and support this matter is now resolved.'

'Excellent service I was getting nowhere until TSD (*Trading Standards Department*) intervened'

'The help I've received has been invaluable as I was at my wits end and my mental health was in jeopardy. At least I am sleeping better now and more able to deal with other problems from day to day. Thank you.'

3.4.4 In the last financial year the consumer advice service obtained at least £39,476 redress for Halton consumers. Only a relatively small percentage of consumers let us know the outcome of their complaint and so in reality the figure is likely to be much higher than this.

3.5 Individual case studies

3.5.1 The consumer advice service provides the greatest support to consumers who need it most. Many of the consumers we deal with are facing severe challenges in their lives (such as illness, unemployment,

bereavement) at the same time as being unable to resolve serious consumer issues which have often been unresolved for significant periods of time. Such consumers can suffer considerable detriment where the goods or services involved are necessary to meet their everyday basic needs e.g. a car needed for work or a kitchen or bathroom which leaves them without cooking or bathing facilities. The following are very brief outlines of the cases that Trading Standards have been able to resolve in the last year (further details are provided in Appendix A):

3.5.2 Case Study 1

A consumer who was living with a brain tumour and coping with other challenging family circumstances (her husband was recovering from a heart-attack, her daughter had mental health problems, her son had learning difficulties and both her and her husband had lost close family) contacted us after she had been without her car for 3 months and been unable to get the trader to fix it. A Small Claims Court procedure was commenced once negotiations with the trader failed. Within 48 hours before the court date the trader offered an out of court settlement for the amount the consumer was claiming - £5372.

3.5.3 Case Study 2

A consumer had been caught out by a rogue timeshare re-seller who charged her £4680 to bring two timeshare agreements to an end but failed to do anything. The consumer was facing challenging circumstances in her life: her husband had a mental health problem and he had accrued significant debt without her knowledge resulting in them having to sell their family home. Whilst we were helping this lady her husband was sectioned and her mother was diagnosed with dementia. Despite repeated resistance we were eventually able to secure a full refund for this lady from her credit card company.

3.5.4 Case Study 3

The consumer had used all his savings for a full house refurbishment in May 2016 at a cost of £31,700. His wife was living with cancer and her mobility was restricted. The consumer believed that the work wasn't satisfactory but had been unable to resolve the dispute with the trader. Despite the trader refusing to return to the property we have secured a partial refund and will hopefully be successful in obtaining the balance without the need for court.

3.5.5 Case Study 4

The service was contacted by the son of a 92 year old man who had been cold-called by a T offering to do work on his home. He had been persuaded to pay a £700 deposit. The trader had failed to give him the

required notice of cancellation rights. We secured a £500 refund for the consumer.

3.5.6 Case Study 5

The consumer entered into a contract with a trader for a fitted kitchen at a cost of £3,500. There were various problems with the kitchen including a gas pipe being bent after the cooker was forced into place by the trader. The trader responded to occasional letters that were sent to him by the consumer but did not accept liability for any of the problems, blaming the fitter. As a result of our intervention, after 16 months of the consumer having a kitchen which was defective, the trader agreed to replace the kitchen and offer compensation.

3.5.7 Case Study 6

We were contacted by the son of an 85 and 95 year old who had bought a stairlift for £950 because one of them was virtually bed-bound. The stairlift was faulty but the trader was claiming that it had been damaged by the consumer. After much negotiation, the trader agreed to remove the stairlift and refund £780 - they insisted on retaining £170 for the alleged damage.

4.0 POLICY IMPLICATIONS

None

5.0 FINANCIAL IMPLICATIONS

None

6.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES

6.1 Children and Young People in Halton

None.

6.2 Employment, Learning and Skills in Halton

None

6.3 A Healthy Halton

The consumer advice service provides expert tailored advice to consumers to empower them to deal with their own consumer problems and to intervene on behalf of those who are unable to resolve the problem themselves. Often those requiring the greatest help are facing challenging life situations such as poor health, bereavement or debt and

problems with goods or services that they require to meet their basic needs.

6.4 A Safer Halton

None

6.5 Halton's Urban Renewal

None

7.0 RISK ANALYSIS

None – the report is for information only

8.0 EQUALITY AND DIVERSITY ISSUES

None

9.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

None under the meaning of the Act.

Appendix A

Case Studies

- 1 A consumer was facing serious health problems herself (she had a brain tumour) and with her family (her husband had a heart attack, their daughter had mental health problems and their son had learning difficulties) and both herself and her husband had lost close family members around the same time. The consumer had bought a car from a main dealer but it had failed within six months. The consumer had been trying to resolve the dispute for several months before contacting the advice service but the trader claimed that the consumer had caused the problem with the car. Attempts to negotiate a settlement failed and so the service supported the consumer to file a claim in the Small Claims court.

The case was further complicated because the trader's head office was based in Glasgow and so a different process was required to have the case heard in an English court. Another complication was that the car had been stored outside at the trader's premises for 21 months and had become badly corroded, making it difficult to obtain evidence.

A consumer advisor was set to represent the consumer at court (her health issues meant that she was not able to represent herself) but within a couple of days of the hearing date the trader offered an out of court settlement of £5372 which was the amount the consumer was claiming. The consumer would not have been able to pursue this claim without our help.

2. The consumer had entered into two timeshare agreements some years ago and was being pursued for maintenance fees. She was contacted by a company who told her that they could bring these contracts to an end at a cost of £4,680 which she paid on 23 October 2014, paying a deposit on her credit card.

This service wrote to both the company and the credit card company. The credit card company refuted the claim, after further negotiations they offered to refund 50% and finally a full refund was secured for the consumer. During this time her husband suffered mental health issues and was sectioned. He had got into debt without the consumer's knowledge which resulted in them having to sell their home to pay off the debt. Her mother was also diagnosed with dementia during this time.

3. The consumer entered into a contract for a full house refurbishment in May 2016 at a cost of £31,700. The consumer has complained to the trader on several occasions regarding work that has not been carried out with reasonable care and skill. Since our involvement we have discovered that the boiler installed by T was not commissioned or registered with gas safe (a potential safety issue). The windows

installed were not compliant with Building Regulations as safety glass was not installed, which is particularly concerning because the consumer's wife has to use crutches. Despite the trader refusing to return to the property to look at what is being alleged, we have secured a partial refund and will hopefully be successful in obtaining the balance without the need for court.

4. The service was contacted by the son of a 92 year old man who had been cold called by a T offering to do work on his home. He had been persuaded to pay a £700 deposit. The trader had failed to give him the required notice of cancellation rights. We contacted the Trading Standards local to the trader and obtained contact details for him. We wrote to and rang the trader and eventually secured a £500 refund for the consumer. We offered to support the consumer to take action in the Small Claims Court but he chose not to pursue it any further.
5. The consumer entered into a contract with a trader for a fitted kitchen at a cost of £3,500 in December 2015. There were various problems with the kitchen including a gas pipe being bent after the cooker was forced into place by the trader. Although the consumer and his wife were capable of dealing with the issue the trader was known to our service, which influenced our decision to intervene. The trader responded to occasional letters that were sent to him by the consumer but did not accept liability for any of the problems, blaming the fitter. This service wrote to the trader advising him that the company were liable for the fitting. The trader still did not resolve the situation and so the service drafted court papers for the consumer. After the claim was issued the trader agreed to attend a meeting at the consumer's home. We advised the trader that in our view the consumer would stand a reasonable prospect of being successful in his claim at court. After 16 months of the consumer having a kitchen which was defective, the trader agreed to replace the kitchen and offer compensation.
6. We were contacted by the son of an 85 and 95 year old. One of his parents was virtually bed bound and because of this they had paid £950 to have a stairlift installed. The stairlift was faulty but the trader was claiming that it had been damaged by the consumer. Following contact from this service the trader offered to collect the stairlift for inspection and take it back to their premises on the understanding that if no further damage had been caused they would refund minus £170 for the damage allegedly caused by a 90 year old lady. After much negotiation, the trader agreed to remove the stairlift and refund but they would not change their stance on the £170 damage.