

REPORT TO: Safer Policy and Performance Board
DATE: 17th November 2019
REPORTING OFFICER: Strategic Director, People
PORTFOLIO: Trading Standards
SUBJECT: Consumer Advice
WARDS: Borough wide

1.0 PURPOSE OF THE REPORT

1.1 The purpose of this report is to update the Board on the work of the Consumer Advice Team providing some case studies from the past 12 months.

2.0 RECOMMENDATION: That the Board consider the information presented and raise any questions of interest or points of clarification following the presentation.

3.0 SUPPORTING INFORMATION

3.1 The consumer advice landscape

3.1.1 Consumer Direct is 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 with the commercial contractors remaining 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.

On completion of this tender exercise in October 2016, 8 centres transferred to the new provider. 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, which allows Trading Standards to identify emerging themes, scams and consumer needs. 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.

- 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. Individual complaints do not necessarily lead to immediate enforcement action as sometimes a number of complaints are needed to take effective action. This information provides valuable intelligence allowing Trading Standards to prioritise their activities. In general, Trading Standards will only contact the consumer if further information is needed to pursue an investigation.
- 3.2.3 The Trading Standards Service receives thousands of complaints each year. The helpline allows Trading Standards to focus on regulatory work against those traders who cause the most detriment to other businesses and consumers.
- 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 that 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 the contact is made at the consumer's home or if a consumer enters into a contract via distance, 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 informed of 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. The goods must be available for the trader to collect and they don't have to pay for any services that the trader has provided under the contract. 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 gain a contract the consumer may have additional rights. These include:

- 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); and
- The right to claim damages for additional losses or harm they have suffered.

The adviser will consider how influential the trader's behaviour was on enticing the consumer to enter into the contract as the above rights are only available if the trader's action was a determining 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 to 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 where goods or services are faulty there are approximately 50 civil procedure rules supplemented by practice directions.

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.

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%)

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.

Case Studies

- 1 A consumer and her family were facing serious health problems and they had recently 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 but within a couple of days of the hearing date the trader offered an out of court settlement of £5372 which was the full amount of the claim.

2. A 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.

3. A consumer entered into a contract for a full house refurbishment in May 2016 at a cost of £31,700. The consumer had 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 was not commissioned or registered with gas safe, a health and safety issue. The windows installed were not compliant with Building Regulations. Despite the trader refusing to return to the property to look at what was being alleged, we secured a partial refund and continue to pursue the remainder.
4. The service was contacted by the son of a 92 year old man who had been cold called by a trader offering to do work on his home. He had

been persuaded to pay a £700 deposit. Our intervention secured a £500 refund for the consumer.

5. A 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. We wrote to the trader advising him that the company were liable for the fitting. The trader still did not resolve the situation and so we 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 elderly couple. 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 our contact the trader offered to collect the stairlift for inspection and take it back to their premises and eventually agreed to a partial refund.