

Trading Standards doorstep selling enforcement study

Annexe P of the doorstep selling report

May 2004

TRADING STANDARDS DOORSTEP SELLING ENFORCEMENT STUDY

1. EXECUTIVE SUMMARY

- 1.1 This report was commissioned by the Office of Fair Trading as part of their research to formulate a response to a super-complaint about doorstep selling made by the Citizens Advice in 2002.
- 1.2 The report examines the complaints made to a sample of trading standards authorities across England, Wales, Scotland and Northern Ireland, and considers the strategies used to deal with such complaints and the difficulties encountered in enforcement work related to them.
- 1.3 Case histories from individual authorities illustrate the ploys used by traders to attempt to evade the limited protection offered to consumers by the existing legislation. These are supported by comprehensive statistics from four authorities and North Yorkshire police that demonstrate the scale of the problem.
- 1.4 The report looks in detail at certain trade sectors that were found to be a consistent source of complaints. These were home improvements, including particularly damp survey companies and security companies, assistive products, and utilities.
- 1.5 Authorities throughout the country found that the greatest difficulty in taking action was that many doorstep traders, and particularly itinerants, are impossible to identify and trace. The report concludes that a ban on cold calling, perhaps specifically in the problem area of home improvements, would be the solution to this.

INTRODUCTION

- 2.1 On 3 September 2002, the Citizens Advice asked the Office of Fair Trading (OFT) to consider a super-complaint about sales in the home. The super-complaint was supported by the Citizens Advice report 'Door to Door: CAB clients' experience of doorstep selling'

- 2.2 On 11 November 2002, the OFT responded to Citizens Advice indicating that they would undertake an investigation into the issues raised by the super-complaint.
- 2.3 During that investigation, the OFT identified the need for research on the effectiveness of the current legislative and other framework regulating doorstep selling with reference to the experiences of local authority trading standards departments. This report was commissioned to address these issues.
- 2.4 The purpose of the research was to look at the methods used by trading standards departments to deal with consumer problems arising from doorstep selling, including referrals to other bodies, and, in particular to look at the strengths and weaknesses in the current framework. Information was also required on home authority relationships with companies engaged in doorstep selling, and special initiatives and partnerships used to combat the problem.

3 VISIT PROGRAMME

- 3.1 The research data was gathered by undertaking visits to trading standards authorities. Where possible, complaints statistics were obtained, and the outcomes of individual complaints were critically examined. The authorities visited were selected to be as representative as was practical. They included county councils, metropolitan boroughs, unitary authorities and London boroughs. Northern Ireland Trading Standards Department, a Scottish and a Welsh authority were also included.
- 3.2 Individual case histories were identified and discussed in order to determine the factors that aided or hindered any enforcement action, and to highlight the sales techniques used by doorstep sellers. The frequent lack of complaint coding specifically for doorstep selling means that data retrieval can be impossible. The unsupported case histories within the report were all recalled by officers in great detail, but could not be retrieved from the authorities' databases.
- 3.3 It is clear that most officers are concerned, on the basis of their experience, by the frequency and severity of this type of complaint. In particular, they find ineffective legislation and limited staff resources restrict the efficacy of enforcement work in this area.
- 3.4 **The London Borough of Enfield** was visited on 4 September 2003. Enfield covers an area of 8,218 hectares and has a population of 292,000. There are 15 members of staff, including 5 investigations officers and 3 advice officers. The officer interviewed was Tony Allen, Team Leader (Investigations). The trader database provided a list of some complaints recorded against an 'at home' code since 1 March 2003. This showed 23 complaints, however, this figure includes internet and other distance sales. Additionally, this code is not mandatory and so does not truly reflect the number of complaints received about doorstep selling. The officer was able to provide additional information about cases in which he had been involved. The authority does not act as home authority for any companies involved in doorstep selling, although did have a double glazing company that used cold calling based in its area three years ago.

- 3.5 The authority has a practice of allocating a higher priority to certain complaints that fall within specified 'public policy' areas set by councillors. One area of public policy is 'people being deceived in their own homes'. This means that a complaint about doorstep selling will always be referred from the advice team to an investigation officer. A rapid response procedure is currently being formulated with the police. The authority is working towards an intelligence-led enforcement initiative with the police, who are piloting the 'National Intelligence Model'. Officers also work with the police on Operation Michaelmas, a programme of disruption/high visibility policing to combat street crime.
- 3.6 On the basis of his investigation of a vacuum cleaner business, it was Tony Allen's view that the 'doorstep' regulations need strengthening to prevent traders turning an unsolicited visit into a solicited one. He also commented that the major hurdle to many investigations is the problem of tracing traders. To combat this he believes officers should be given powers to require information under the Business Names Act 1985. He believes that licensing or registration may help.
- 3.7 There is no specific procedure for dealing with doorstep selling complaints at present. Advice officers will highlight complaints to enforcement staff if they feel the complainant is vulnerable. The department may work with other Greater Manchester authorities on a response procedure in the future. Graham Levy stated that the disparate nature of the twenty two, generally small, authorities, within the Greater Manchester area does present an issue, and that recording of incidents and information sharing must be improved. The authority has an informal partnership with the police and benefits agency and has done some joint disruptive enforcement work. The intention was not necessarily to prosecute any traders as a result of that, but to make life difficult for them and to get the word out that they would not be tolerated in the area. They also use local press and radio to raise awareness.
- 3.8 Graham Levy believes that the 'doorstep' regulations were much improved by the addition of an offence in 1998. The authority has never prosecuted under this provision, but has used the fact that an offence has been committed to assist in obtaining a remedy for consumers. He thinks that a ban on problem areas of doorstep selling with a power of arrest for police would overcome the problems of tracing itinerant traders, but that more awareness training for the police would be essential for it to work.

- 3.9 **Wrexham County Borough** was visited on 11 September 2003. The authority covers an area of 50,500 hectares and has a population of 128,500. It has an enforcement staff of 12 and an advice staff of 2. Trading Standards Officer Lise Mitchell was interviewed. It was not possible to recover any statistics from the authorities database. The department is home authority for Dee Valley Water, but the company does not cold call.
- 3.10 Doorstep selling complaints are all referred to Lise Mitchell by advice staff. If she is not present they are instructed to pass them to another officer within the fair trading team. Some police training is underway and there is an agreement for them to provide back up if an immediate response is needed to a complaint. An officer will try and attend if the trader is present or returning. The authority also plans to set up a trader approval scheme and works with victim support and neighbourhood watch on educational issues. They also seek to generate as much publicity about the issue as they can.
- 3.11 Lise Mitchell thinks that a ban on cold calling for home improvements would be the most effective way of dealing with the problem, given the difficulties in tracing itinerants and others, such as damp survey companies. In the absence of this she feels that there should be a requirement for the notice of cancellation rights to be more prominent, and, to counter traders who begin straightaway, there should be a 7 day cooling off period before work can begin.
- 3.12 **The London Borough of Greenwich** was visited on 16th September 2003. The Authority has a population of 215,000 and 8 enforcement staff. There are no advice staff, but a telephone advice service is operated three half days per week by enforcement officers on a rota basis. The officers interviewed were Colin Neighbour, Team Leader and Martin Harland, Trading Standards Officer. The authority's database has no specific coding for doorstep selling complaints and so no statistics could be obtained. As the advice function is performed on a rota basis it was particularly difficult to obtain an overview of the type and scale of complaints received. The main source of complaints is considered to be itinerant builders/workmen. It was stated that it will not always be known that a complaint relates to doorstep selling as the complainant may just refer to the quality of the work done and be given advice about that alone. The authority has no home authority companies that cold call.

- 3.13 As a consequence of the small number of staff available, the only specific procedure in place is that if the caller seems to be elderly or disadvantaged officers would try to intervene on their behalf. Otherwise, callers are given civil advice. The authority is planning awareness initiatives to be aimed at social services, district nurses, banks and post offices.
- 3.14 In addition to the difficulties of identifying traders, it was reported that it is easy for traders to move from one London borough to another. It was thought that communications between authorities must be improved.
- 3.15 **Warwickshire County Council** was visited on 18 September 2003. The county has a population of 505,000. There are 7 advice staff, and an investigation team of four deal with all doorstep selling complaints. The officer interviewed was Rob Quinlan, Senior Trading Standards Officer. The authority's database has a code for 'contracts away from business premises', and 60 complaints have been recorded against this code since 1 January 2003. Of these 47 relate to itinerant traders. The remainder feature alarm and security companies (5) and assistive products companies (2).
- 3.16 The authority has set up a consumer protection enforcement team to look at problem traders/trade sectors. One of its responsibilities is to respond immediately to complaints about doorstep selling where the trader is, or will, be present. The authority is currently developing a protocol with the police for these incidents and for disruptive enforcement. Some joint awareness and information sharing initiatives are ongoing through the regional 'Crossing the Boundaries' trading standards group.
- 3.17 The authority has not been able to prosecute any traders as they are frequently difficult to identify. In addition, it is not always possible to take statements from vulnerable complainants. His view is that a licence to trade could provide a solution to this although it could prove difficult to police. He thinks the 'doorstep' regulations are not as effective as they should be because the offence appears to be a technical one. Strengthening the regulations could remedy this.
- 3.18 **Dorset County Council** was visited on 23 September 2003. The authority covers an area of 254,200 hectares and has a population of 387,300. There is an enforcement staff of 16 and an advice staff of 2. The authority has a code for doorstep selling and a report produced from its database showed that 83 complaints had been received under this coding since April 2003.

- 3.19 When the authority receives a doorstep selling complaint, the advice officer refers it to the community safety team for immediate action if appropriate. If no one is available in that team it will be referred to the complaints team. Police assistance will be requested if necessary, and work is underway on a protocol to formalise that relationship. The authority provides information for the police Operation Litotes and also to other trading standards departments in the SWERCOTS regional group through their formalised 'Foot in the Door' procedure. There have been pilots of schemes encouraging home care assistants and refuse collectors to pass on information. The authority has also written to banks, buildings societies and post offices, and a letter aimed at awareness raising and requesting information is sent via district councils to all taxi drivers. Awareness raising sessions at daycare centres are held in partnership with Age Concern. These have included role play, and cassettes and CDs featuring a play and information on the topic will shortly be available. The latter has been prepared with Consumer Support Network funding and will be launched during National Consumer Week.
- 3.20 As well as the problems of identifying traders, the enforcement officers find that it is often impossible to obtain a statement from the complainant because they are confused or vulnerable, the very reasons that have made them a target for the trader. Both officers feel that the cancellation regulations need to be given some teeth. At present traders can try various ploys to turn a visit into a solicited one. They suggest that the definition of 'unsolicited' should be extended to include any visit with the exception of one in response to a request from a consumer that has come by way of a published advertisement. Both officers feel that a licensing or registration scheme could go some way to combating problem doorstep sellers.
- 3.21 **The Northern Ireland Trading Standards Service** was visited on 24 September 2003. The service covers 5,500 square miles and there is a population of 1,685,267. There is an enforcement staff of 33 and an advice staff of 2. The officers interviewed were Kieran Collins, Area Inspector and Nicholas Lane, Inspector. The service does have a 'doorstep selling' code within its database, but was clearly not being used, as a report using the code showed only 10 complaints since June 2002 when it was introduced. From examination of the complaints categorised under the 'home improvement' category, it was clear that doorstep selling complaints were also being recorded under this code. The officers thought that complainants might not tell advisors that their complaint arose from a doorstep purchase. It was not therefore possible to retrieve a full report of all the complaints received.

3.22 The officers reported that most doorstep selling complaints arose from travellers offering home improvement work. There are problems with identifying such traders and this is exacerbated by the fact that they can move between Northern Ireland and Eire with ease. Aside from these, officers felt that the main source of complaints were alarm/security companies and bed and vacuum cleaner sellers. There is no specific procedure for dealing with these complaints, and complainants may be given civil advice only. It is felt there are insufficient staff to follow up all complaints. The service has produced some press releases about the issue and also been involved in some seminars run by Help the Aged. The officers did not consider that the issue presented a large enough problem to warrant a change in the law.

- 3 As little had been found in terms of statistics, complaint numbers were then obtained from **North and West Yorkshire Trading Standards Services** as both authorities recently introduced systems to identify any report of a doorstep selling incident.

Table 3.1 Doorstep selling complaints (1.4.03 – 30.9.03)

	North Yorkshire	West Yorkshire (from 1.1.03)	Dorset	Warwickshire
Property repairs or maintenance	98	178	50	50
Other	53	92	33	10

Table 3.2 Doorstep selling complaints (1.4.03 – 30.9.03)
Breakdown of Property Repairs/Maintenance/Services Complaints

	North Yorkshire	West Yorkshire	Dorset	Warwickshire
Tarmac / paving	54	57	11	27
Guttering/roofs/fascias	19	54	7	12
Damp surveys	8	1	1	1
Security/alarms	7	17	3	5
General repairs etc..	10	49	28	5

4 FINDINGS

- 4.1 Of the authorities visited, only Dorset and Warwickshire were able to provide meaningful statistics. These are reproduced, along with those for North Yorkshire and West Yorkshire in the tables above.
- 4.2 From the statistics obtained and the case histories discussed, it is clear that by far the biggest problem encountered is within the area of property improvements or repairs, especially those provided by itinerant traders. Such complaints are the most numerous and also have the biggest impact on consumers in financial and psychological terms. Overall, the sector accounts for 64.7 percent of the doorstep selling complaints received in those authorities.
- 4.3 Figures reported by North Yorkshire police analysts support this picture. Of the 945 complaints received by the police about doorstep selling (excluding utilities and distraction burglary) over a 12 month period almost 400 relate to home maintenance or repairs.
- 4.4 Of the home improvement sector, leaving aside the number generated by itinerants, companies offering damp surveys, the utilities and those selling alarms/security equipment and assistive products are also highlighted both in the statistics and the case histories. These sectors are examined in more detail below, along with vacuum cleaner sales which was also a feature of individual case reports.
- 4.5 A number of other common issues were consistently reported throughout the country. These were:
- late reporting of complaints
 - lack of effective legislation
 - traders being aware of legislative requirements and attempting to evade them
 - complainants being reluctant or unable to give statements
 - lack of resources

There were also local and isolated issues which are examined later.

Itinerant traders

- 4.6 Although this report was not intended to examine this issue in any depth, it became apparent that the majority of serious doorstep selling complaints dealt with by trading standards departments were generated by itinerant traders. It is common for these traders to obtain many hundreds or thousands of pounds from their customers for, usually, very poor or incomplete work. The work is also frequently unnecessary, Northern Ireland Trading Standards Service reported incidents of itinerants offering 'roof washing' for example. Householders are often re-victimised and may be reluctant to report incidents to the authorities. When complaints are received trading standards departments can often do little because it is after the event. In most cases it is not possible to trace the trader either because the complainant has no details or because the trader is using a fictitious or untraceable address together with an unregistered vehicle and an unregistered 'pay-as-you-go' mobile phone. Itinerants will often share names, so that if one has a criminal record and is known to the police they all use that name for any dealings with enforcement authorities. It is also known that they will swap vehicles during the day to make tracing and detection more difficult. As awareness of the problem rises and consumer education takes effect, there is evidence that traders are taking on the guise of a legitimate business. Many produce flyers, some in glossy colour format, and letter headed invoices. Some dress in a 'uniform', for example polo shirts or baseball caps with business logos on.
- 4.7 A woman living alone in Greenwich was targeted by a builder who initially cold called at her home in November 2002. Over a period of 7 months he carried out various works at the house for which he charged £61,250. The work was substandard and incomplete in June 2003 when the builder disappeared. The woman initially contacted the police. She had an address for the builder and asked if she should visit. The police told her that it was a 'no go' area and that she certainly should not visit. She then contacted her local Trading Standards authority. Despite enquiries with the neighbouring authority and the electoral registration department, officers were unable to find the trader.
- 4.8 A man in his sixties with learning difficulties lived with his brother, a builder, in Essex. Whilst the brother was out at work during the day, itinerant builders repeatedly visited the man and carried out substandard work at extortionate rates. They took him to the bank to withdraw money, and after a few visits

the man and his brother agreed with the bank that he would be unable to withdraw more than £100 without the brother's co-signature. The local trading standards department was also informed. Shortly after this the bank contacted the trading standards department to report that the man was at the bank and when his withdrawal had been refused he had asked staff to call the police as the men were outside waiting for the money and he was scared of them.

Trade sectors

4.9 Nationally there are particular trade sectors, apart from itinerant builders, that feature time and again in complaints about doorstep selling. These are damp companies, energy companies and those selling assistive products, alarm and security equipment, and vacuum cleaners.

Damp companies

4.10 There are a number of companies operating nationwide that cold call homes with the offer of a damp survey. Surveys usually find that there is rising damp and suggest that certain work is required. Infact, if damp is present it usually has a specific cause, for example, a leaking overflow. The treatments offered are usually unnecessary and, in any event, ineffective. In some cases it is suspected that the liquid injected is no more than water.

4.11 The extent of the problem is illustrated by the experiences of an officer at Coventry trading standards. He was investigating a company that had generated 12 complaints in his area and then disappeared. As part of attempts to locate the company, he sent out an email message on the national TS-Link system to all trading standards authorities. He received calls from colleagues all over the country, including Southampton, Brighton and the south coast, Cumbria, Devon, Stoke, Lincolnshire and London, who had encountered similar complaints.

4.12 In 1996, a trading standards department successfully prosecuted Company E under the Trade Descriptions Act 1968 for falsely stating that certain houses had damp and required new damp proof courses. Since then, the authority has found that damp companies do not claim that work is required, but instead recommend preventative work. Company F is currently under investigation. The business, which is a partnership, cold calls but does not

give cancellation rights, and its paperwork, does not comply with the Business Names Act 1985. They cold called the house of an elderly woman living alone in Chesterfield and suggested that the walls of her bungalow should be sprayed with 'product A'. The price was £600. A trading standards officer invited the business to be interviewed in respect of offences under the Business Names Act 1985 and the Consumer Protection (Cancellation of Contracts Concluded away from Business Premises) Regulations 1987. The business declined to be interviewed and sent in compliant paperwork stating that they had recently moved premises and had not used the correct paperwork for that reason. The company is still under investigation.

- 4.13 Companies will often return to the same households after some months to carry out a further survey, and, invariably, find that additional work should be done. The Company F survey includes the statement 'retest 3 months'. There is even evidence that companies will sell on their lists of past customers so others can follow up.
- 4.14 A trading standards found that Company E., who went into liquidation, sold on their list to Company G. The company cold called an elderly woman who had had work done by Company E. and told her that they were checking to see if that work needed rectification. They found that £720 worth of work was required. The complainant's daughter found out about the visit the same day and cancelled the contract. (The complainant had not been notified of her right to cancel by the company.)
- 4.15 Company H cold called an elderly, blind Dorset woman to arrange for a survey to be carried out. She told her home care assistant who involved trading standards. An officer, posing as a neighbour, was present at the time of the survey when the complainant was told that her home had rising damp and required work. The trading standards officer prevented a contract being entered into and subsequently obtained an independent report confirming that the only problem was condensation. The report was passed to Staffordshire police who were already investigating the company. Dorset trading standards were particularly concerned about this company as they had received a number of calls on the police/neighbourhood watch ringmaster system indicating that the company were targeting older people.

Energy Companies

- 4.16 It was not intended that this report would consider energy sales as it was felt the sector was adequately regulated by OFGEM. In addition, consumers can have recourse to Energywatch. However, the following issues were thought worthy of reporting.
- 4.17 Complaints seem to arise from 'rogue' salespeople who are poorly supervised and controlled by the companies. It could be argued that the 'commission-only' basis on which most salespeople are employed encourages fraudulent behaviour. For example, a trading standards department received 50 complaints about the activities of Company I. It was believed that altogether 1,500 consumers had been affected by the activities of a sales team of eight who forged signatures and persuaded people to sign to change suppliers under the guise that they were signing a request for information. The company claimed to be unaware of the team's activities and sacked them as soon as they were informed.
- 4.18 The London Borough of Enfield trading standards found over 1,000 forged documents in the case of Company J trading as Company K. They compiled a report for the Gas and Electricity Markets Authority who subsequently fined the company £2 million. Enfield incurred investigation costs of nearly £50,000. Had they successfully prosecuted the company some or all of this would have been recoverable. This is a significant sum for any authority and has implications for any future work. It may not be possible for trading standards authorities to do the investigation work for a utility regulator if some or all of the costs involved cannot be recovered.
- 4.19 Dorset trading standards reported a successful outcome from recent incidents of mis-selling by Company L agents. They immediately reported the complaints to Energywatch and Company L withdrew the sales team from the area.

Assistive products

- 4.20 By their very nature, these products are more likely to be sold to older or more vulnerable consumers. There is evidence that companies are relying on the fact that their target audience are housebound or have limited

mobility and so are unable to shop around and find the best bargain and most suitable product for themselves.

- 4.21 A couple in their eighties living in Coventry were visited by two salesmen from Company M after they had filled in a 'lifestyle' questionnaire. The couple felt 'intimidated and pressured'. Finally, they agreed to buy a therapy encyclopaedia and the husband signed a cheque for £1,297 in order to get the salesmen to leave. A notice of cancellation rights was left and the husband signed this within the cancellation period. However, before he could post it he was hospitalised. The incident came to light almost three weeks later when the couple's granddaughter was going through some post at their home. She found the signed notice of cancellation and wrote to the company asking that, given her grandfather's poor health, they honour the cancellation. The company initially declined, however, after the granddaughter had visited their offices in Wales and intervention from the trading standards department they eventually agreed to accept the cancellation and refund the cost of the pad.
- 4.22 Company N made contact with an elderly couple in Derbyshire via a competition to win a mobility scooter. The couple were contacted and told that they had won a runner up prize – a discount on the cost of a scooter. The scooter was never used due to ill health and trading standards became involved. From the officer's research it became apparent that the scooter could typically be bought for £1,000 whereas Company N was charging £1,400 after the discount.
- 4.23 An elderly woman in Wrexham arranged to buy a scooter through Company O. However, she changed her mind about its suitability and cancelled the contract. Three months later, the salesman she had dealt with made an unsolicited visit to her flat. At the time she was attending a hospital appointment and a neighbour told the salesman this. He went to the hospital, and having told staff he was her nephew, he spoke to the complainant and persuaded her to buy another scooter. She told him she didn't have any money with her and so he drove her to the bank.
- 4.24 She then found the scooter to be unsuitable and contacted Company O to cancel the contract. She was told the salesman no longer worked for the company. She contacted the salesman direct and he told her he would buy the scooter back for £200 when she had paid £595. After trading standards involvement the full amount was refunded.

4.25 Both Warwickshire trading standards and the Northern Ireland Trading Standards Service reported cases involving Company P where sales staff had visited older consumers' homes with a bouquet of flowers or a plant and a cake iced with the consumer's name. Having established a rapport the salespeople then moved on to a high pressure approach.

Alarm and security equipment

4.26 Again, most authorities reported complaints about high pressure selling of these products, particularly targeted at older and more vulnerable consumers and preying on their fear of crime. There was again evidence that companies were charging extortionate amounts for their products, exploiting the fact that the purchasers were housebound or vulnerable and unable to shop around.

4.27 Warwickshire trading standards reported 5 recent complaints about alarms. Company Q was responsible for 3 of these. The company does give cancellation rights, but uses high pressure selling techniques and there are reports of verbal false trade descriptions. In the Warwickshire cases it was being claimed that it was a condition of house insurance to have home monitored security (CCTV). Dorset trading standards reported the company giving away scratch cards at supermarkets. The prize is an alarm – the catch is the extortionate cost of the four year service charge that the lucky winners are signed up for.

4.28 Dorset trading standards had also received complaints about Company R. The company does a leaflet drop with the offer of a free alarm. This is followed up with visits where the salesman will say that an area has had three burglaries that week or is a high crime area when, in fact, there are no such problems.

4.29 A number of authorities reported complaints about Company S. The company will target a particular area at one time, for example a trading standards department received 22 complaints about the company within the period 14 April 2003 to 16 May 2003. They sell alarms and monitors with high installation costs and high annual monitoring fees. Typically they give verbal mis-descriptions including implying that they are working with the police or local authorities. Warwickshire reported a case of the company claiming that the complainant's old alarm needed updating in order to comply

with new European legislation. The company is currently under criminal investigation by at least three trading standards departments, and may also be facing action under the Enterprise Act. Despite this, the company is showing no signs of changing its practices.

- 4.30 A number of authorities reported problems with Company T. The company sells alarms and allied equipment, and does give notices of cancellation rights. However, they use pressure selling techniques and are known to target the elderly and to return to consumers who have bought from the company in the past. A trading standards department was made aware of one such case by the social services department. An elderly woman had initially bought a smoke alarm from the company. The salesman returned on the pretext of selling and fitting new batteries for it. He also sold her a dehumidifier and, even though she was blind, a video door monitor. The salesman had written out the cheques which she had then signed. In total it was found that she had paid the company £8,000.

Vacuum cleaners

- 4.31 There are a number of businesses that sell high priced vacuum cleaners door to door. The most well-known is Company U, an American company that has licensed distributors in this country.
- 4.32 Charlton resident was contacted by a company which he thought was demonstrating carpet cleaning. It was, in fact, a Company U distributor, and during the subsequent visit the salesman dropped the price of the vacuum from £2,000 to £1,200, but required the consumer to sign up there and then. The consumer was sceptical and the salesman left quickly when he said he wanted to check the company out before agreeing to buy. Northern Ireland Trading Standards Service reported incidents of Company U using a free prize draw to win a car, the draw ticket doubling as a request for a visit.
- 4.33 Twenty four complaints were made to Enfield trading standards about Company V. The business cold called homes leaving a ticket indicating that they had a package to be collected. Consumers believed that it was from a delivery firm, in fact, once they rang the number they were persuaded to agree to a visit from a salesman. Whilst Enfield did not believe a prosecution could be successfully undertaken, officers were preparing a 'stop now' case when the proprietor of the business disappeared.

4.34 A trading standards department has received complaints about a company trading under two names (Company W). They cold call by telephone under the guise of carrying out a health survey. This is followed up with a visit where high pressure techniques are used. For example, if the consumer has children the company will emphasise the increase in childhood asthma and imply that without the use of one of their vacuums the children will become ill. The cleaners cost £4,000 when similar products can be bought for £200 or £300.

Late reporting

4.35 Trading standards authorities are hampered in taking enforcement action because complaints are often made long after the event. This can mean that they cannot trace the trader through lack of information or because he has moved on. There are various reasons why a complaint might not be made at the time. The complainant may be embarrassed, intimidated, or may not even realise that they have suffered a crime. They may also not know whom to report their experiences to.

4.36 Wrexham trading standards received information about a company cold calling the elderly in order to sell disability aids from the social services department. As the information was received well after the incidents had occurred no enforcement action could be taken.

4.37 An elderly lady in Dorchester, whose husband had died only 5 days before, had contacted a local electrical contractor for a quote. Subsequently an employee of the firm had made an unsolicited revisit during which he undercut his firm's quote. She asked him to do the work, and he then began asking for more and more money. She went to her building society to withdraw £4,400 but as she seemed upset and confused the cashier asked her a few questions. The cashier then contacted the local trading standards department. The work was independently inspected and valued at a maximum of £775.

4.38 An elderly Edinburgh man bought frozen 'gourmet food' from a cold caller at the cost of several hundred pounds. He became concerned about the quality and high cost of the food and later reported the incident to his local trading standards department. No enforcement action could be taken as there was no information from which to identify the trader.

Lack of Effective Legislation

- 4.39 Trading standards departments enforce a number of pieces of legislation that may be relevant to doorstep selling incidents. These include the Business Names Act 1985 (BNA), the Consumer Protection (Cancellation of Contracts made away from Business Premises) Regulations 1987 (CCR), the Trade Descriptions Act 1968 (TDA) and the Consumer Protection Act 1987 (CPA). Some departments also prosecute under the Theft Act 1968(TA). The legislation applies in Scotland and Wales, and while BNA applies in Northern Ireland, it is enforced by Companies House.
- 4.40 BNA requires details relating to the ownership and address of the business to be included on all business paperwork.
- 4.41 CCR introduced a cancellation period for contracts made away from business premises for goods or services costing more than £35. Failure to give written notification of these rights became an offence in 1998, although the legislation does not address the issue of the prominence of this information. (The tactics used by traders to evade this requirement are considered in 3.10)
- 4.42 North Yorkshire trading standards recently prosecuted two tarmacers, Subject A and Subject B, under this legislation. Subject A received a fine of £100 each for one offence of failing to give cancellation rights and one of giving false information to the investigating officer. Subject B was summonsed in respect of 6 separate offences of failing to give cancellation rights to 6 consumers. He was fined £100 for one offence with no separate penalty for the others.
- 4.43 TA is a common informers act. The powers conferred by the act apply only to the police. TA is used by most trading standards departments, but is very difficult as there is a need to prove intent and knowledge on the part of the offender. In contrast, trading standards offences are strict liability.
- 4.44 Where trading standards authorities receive a report of high pressure selling at extortionate cost they can often find that, although the behaviour is reprehensible, no offences have been committed.
- 4.45 Edinburgh police referred a complaint from an elderly Edinburgh woman's

daughter to the local trading standards authority. The woman had been persuaded to pay £800 for some household cleaning materials. CPA creates an offence of giving a misleading price indication, but that does not apply where extortionate prices have been charged. There is no legal protection where the consumer has simply made a bad bargain.

- 4.46 Since April, authorities have been able to obtain enforcement orders against persistent offenders under the Enterprise Act 2003. This legislation will only ever be of limited use when dealing with doorstep selling where many offenders are itinerants or use false names and addresses. This is a procedure in the civil courts and breach of an order is contempt of court.
- 4.47 A trading standards department obtained an undertaking from Company X. This has succeeded in that the authority has received no complaints or referrals about the business since. The officer attributes its success to the fact that they were able to identify the man behind the business and include him in the undertaking.

Traders' awareness of legislation and evasion tactics

- 4.48 Whilst some traders undoubtedly are not aware of the requirements of the relevant legislation and comply once they have been advised, there is evidence that many are fully aware of the law and ignore it or take deliberate steps to exploit what they see as a loophole. There are many examples of traders attempting to use competitions, surveys and signed visit requests to overcome the meaning of 'unsolicited' under CCR.
- 4.49 Company V was clearly involved in an attempt to evade this legislation. The company left cards at consumer's homes indicating that they had a package for the consumer and giving a phone number to ring. Investigation of the company showed that it had compliant paperwork. It was found, however, that certain consumers would only get a photocopied front sheet of the order form, the notice of cancellation rights being on the back. It also appeared that in respect of credit agreements for certain consumers, the salesman would complete an on trade premises agreement form at the house but send an electronic off trade premises form to the credit company. The consumer would thus receive a correct executed agreement, but the document that was left with them would have made no reference to the cancellation period that applies to credit agreements made off trade premises.

- 4.50 Traders will often begin work within a day or two of the order being placed. Although consumers can still cancel the contract, and if they have not been told of their rights the contract will not be enforceable, traders rely on the fact that consumers will be reluctant to exercise their rights once work has begun. In most cases consumers won't even know what their rights are. A Coventry resident was cold called and agreed to fascia work. She was not given a notice of cancellation rights and work began immediately.
- 4.51 A trading standards department, home authority for Company X, stated that the company had raised the issue of how to get around giving cancellation rights. On being told that they could not, the company indicated that they would begin work the day after the order was placed.
- 4.52 A man from Derbyshire complained to his local trading standards authority after he had experienced a dubious sales practice. He had approached a trader, Company Y, at a car boot sale. A salesman visited his home at his request and he placed an order. As he had solicited the visit, the consumer had no cancellation rights, however, the salesman initially told him that he had. He then said that he hadn't because he had backdated the contract by several weeks.
- 4.53 Dorset trading standards received complaints about a gardener who would knock on consumers' doors and tell them that he was doing some work next door and needed to look in their garden to check something. Once in the garden he would pass comment on the state of something in the garden and would then be invited to do the work.
- 4.54 The situation also arises where the company gives a notice of cancellation rights and so does not commit an offence, but then fails to accept the cancellation. This would give the consumer a civil remedy only but for most, would effectively leave them thinking that they could not cancel. The company could well have taken payment by this stage and the consumer would be reluctant to pursue a claim in the county court.
- 4.55 A trading standards department was involved in a case where Company S refused to accept a cancellation because they said that the notification was received the day after the cancellation period ended. There was proof that the notice was posted in good time, but the company would have no regard to that.

4.56 Traders also exploit the £35 barrier below which cancellation rights do not apply. Whilst this exemption does not appear to have a major financial impact on the consumer, the psychological effects of an individual being ripped off in their own home, whatever the amount, should not be underestimated. Given the links found between doorstep salesmen and distraction burglary, sales of cheaper items also allow for intelligence gathering on the consumer and their property.

Complainants unable /unwilling to provide a statement

4.57 Unscrupulous traders will target vulnerable individuals who will often be unable to provide an adequate statement or who would not be able to cope with giving evidence. Other consumers may fear repercussions from the trader if they involve the authorities.

4.58 A local post office involved Dorset trading standards when an elderly man tried to withdraw a large sum of cash. It was to pay for some gardening work. The man was too confused to provide a statement, and while officers were talking to him it became apparent that he had been targeted previously.

4.59 In November 2002, Subject C, an aerial photographer who had previously been prosecuted, was found to once again not be giving cancellation rights for sales over £35. The matter was dealt with by advice and home authority referral as the complainants, an elderly couple, did not want to give evidence in court, and were concerned about what the trader might do.

Lack of Resources

4.60 No authority had any separate funding for enforcement relating to doorstep selling. Investigating a doorstep selling complaint can require considerable time input and special expertise from officers and so is likely to be one of the costlier investigations an authority would undertake. Vulnerable consumers may require much more time, and traders who are covering their tracks will take more time to identify and trace than those with a high street presence.

4.61 The structure of local authorities can present similar difficulties. Since re-organisation in 1996, there are many smaller authorities that do not have the resources available for rapid response or disruptive enforcement tactics used by larger authorities. In the Greater Manchester area, Trafford Trading

Standards department was involved in this report. Including advice and enforcement staff, Trafford has a staff of 10. Neither can therefore divert staff specifically to doorstep selling enforcement. This is also true of the London boroughs, some of which have a staff as small as 2 or 3. The lack of staff can affect the number complaints that are made to the authority. For example, The London Borough of Greenwich operates an advice service 3 half days per week using enforcement staff on a rota system. The limited availability of this service will inevitably deter some consumers from making a complaint, particularly if they are reluctant to do so in the first place.

- 4.62 Some authorities are devising education, and limited target hardening initiatives to tackle the doorstep selling problem and funding has sometimes been obtained from sources including local consumer support networks, crime reduction partnerships or relevant charities. However, these are very minor in comparison to the task of investigating and dealing with the worst abuses.

Other barriers to effective enforcement

- 4.63 There are a number of additional obstacles to effective enforcement in relation to doorstep selling. Many traders rely on the fact that they cannot be traced. This is made easier by their use of accommodation addresses and false addresses, or frequent changes of address.
- 4.64 A Chesterfield business using variations on the name 'Company Z' wound up and restarted a number of times. Each time consumers would be left with jobs half done or lost deposits. Investigation showed the individual believed to be behind the business was disqualified from being a director. He used a succession of front men for each new company. The company, although still based in Chesterfield, eventually started marketing in Lincolnshire as the publicity given to their practices meant that they couldn't get any business in Derbyshire.
- 4.65 Company AA was found to have used at least 8 different names and moved through three London boroughs. The company traded from one premises for a time, then obtained new premises and applied for a consumer credit licence at the new address (which had no complaints registered against it.) It appears this strategy was used successfully more than once.

- 4.66 The Company AA case also illustrates the fact that the consumer credit licensing regime may require more effective policing, a view supported by other authorities.
- 4.67 The Company Z companies obtained a number of credit licences, although they were finally refused a licence. The company adapted by only accepting cash payments.
- 4.68 Having statutory powers to obtain information does not always mean that officers find it easy to get that information. There can be other difficulties.
- 4.69 An officer from Trafford trading standards found that it took 8 months to obtain information from a bank relating to the identity of a tarmacer who cashed a cheque given in payment for a job.
- 4.70 Greenwich Trading Standards department has investigated a number of cases where an Itinerant has accepted payment by cheque, but asked for the cheque to be made payable to someone to whom he owes money. For example, two itinerants who had identified themselves as Subject D and Subject E requested that a complainant make a cheque payable to an Subject F. This tactic can make it impossible to trace a trader by this means.
- 4.71 Whilst not strictly an enforcement issue, there can be barriers to consumers successfully pursuing a civil claim against an identified trader. This can affect their attitude towards giving a statement for use in criminal proceedings.
- 4.72 A trading standards found that in the Company Z cases, credit providers refused claims under section 75 of the Consumer Credit Act 1974 (joint liability) on the basis that consumers had signed satisfaction notes when the work had been done.
- 4.73 Northern Ireland and Scotland also face an additional barrier in that their prosecutions are taken respectively by the Director of Public Prosecutions and the Procurator Fiscal. In both cases those bodies make the decision to prosecute. In England and Wales individual authorities make that decision. This is of particular relevance to the tactic of 'zero tolerance' employed by authorities such as North Yorkshire. Both the Northern Ireland service and Edinburgh trading standards stated that cases involving just Business Names

Act offences or even offences for failing to give cancellation rights would not be reported as they would not be proceeded with.

- 4.74 Both Northern Ireland and Scotland have additional local characteristics that can add to the difficulties of enforcement.
- 4.75 The Northern Ireland service operates in a country with a constant presence of paramilitaries. It is believed that this affects the doorstep selling environment in two ways. Firstly, it is evident that paramilitaries have their own systems of what they would call 'law enforcement'. This means that certain estates and areas will simply be no-go areas for doorstep sellers. Secondly, it is thought that there is paramilitary involvement in some areas, for example, money lending and other credit transactions. Given their involvement, enforcement is practically impossible because of the danger to the investigating officers and the unwillingness of individuals to provide statements. The service has the additional current difficulty in that, as the Northern Ireland Assembly is suspended, it has to work with British Ministers and cannot discuss any matters with the Northern Irish ministers.
- 4.76 In Scotland, authorities have to contend with the principle of corroborative evidence. This means that a statement from one individual will never be sufficient evidence to prosecute. It would be necessary to have statements from, say, a husband and wife that corroborated each other. In certain circumstances individual statements demonstrating a pattern of behaviour by a trader would corroborate each other. This requirement can obviously present a very real barrier to enforcement as in many cases there will only be one witness to an incident.

Successful outcomes

- 4.77 For the reasons reported above, it can be very difficult to investigate these complaints. It is even harder to obtain sufficient evidence to prosecute, and few authorities had taken any prosecutions. Many authorities take the view that a successful outcome is achieved if the consumer obtains a refund. This can sometimes be achieved through perseverance on the part of advice or enforcement staff.
- 4.78 It maybe that, given the lack of effective legislation and difficulties of tracing traders, authorities take the view that public warnings are the only action

possible. All authorities issue regular press releases about these types of complaints, some also display notices in the locality and feed information into the police/neighbourhood watch ringmaster system. Some authorities report that following publicity like this, people will come forward with additional information.

- 4.79 It is also possible in a minority of cases to refer issues to other, often self-regulatory, bodies with positive results. However, these instances generally involve more reputable traders who can be located, and who would abide by the decision of a self-regulatory body.
- 4.79 Company J was fined £2 million as a result of the investigation report referred to the Gas and Electricity Markets Authority by Enfield Trading Standards.
- 4.80 A trading standards department acts a home authority for Company D, a company cold calling, particularly older people, to sell solar panels. They made claims about the savings that could be made by using the panels which were only true over a period of many years. In the case of an elderly person, they would probably not use the panel for long enough to benefit. The department was unable to prove any trade description offences, but successfully referred the matter to the Advertising Standards Authority who held that the advertising material was misleading.

Home Authority Issues

- 4.81 Very few authorities reported having a home authority relationship with companies that use cold calling as a marketing technique. Most reported that companies with whom they had this formal relationship did not need to use cold calling. This may be indicative of the fact that it is largely reputable companies who will work with their local trading standards authority on this basis.
- 4.82 Trafford trading standards is home authority for Company BB. The company does not use cold calling except for one area of Scotland where they have found it to be the only effective marketing tool. Company BB uses attendance at events such as the Ideal Home Exhibition as a major marketing tool – this

type of marketing would not reach consumers in isolated areas and could explain the perceived need for cold calling in those areas.

- 4.83 A trading standards department is home authority for the Company CC which operates entirely on a cold call basis. The authority has worked extensively with the company and does not receive complaints about it. The owner of the business was previously prosecuted by Derbyshire when he was a salesman for another damp company. It seems likely that this experience has encouraged him to seek advice from the authority.
- 4.84 A trading standards department is also home authority for Company B, a window company. The majority of their work does not come from cold calling, but they do obtain approximately 5 percent of their business in that manner. The authority has regular meetings with the company and agreed to give cancellation rights to all consumers. There were issues relating to the number of complaints about faulty installations and consultation with a view to taking action under the Enterprise Act had begun when the ownership of the company changed. The situation is currently being monitored.

5 CONCLUSIONS

- 5.1 It is clear that doorstep selling presents a very real problem. Statistics from authorities (and the police) that fully record all complaints concerning such incidents indicate that the problem is extensive and often involving high values and the most vulnerable. This type of complaint is very underreported (see Trading Standards Institute Survey, November 2002) and so the true picture is likely to be much worse. It should also be noted that even those authorities with little in the way of comprehensive statistics all reported complaints that would have had significant impact, financially and psychologically, on the complainants. The presence of these traders, whether itinerants or businesses of more legitimate appearance cannot be ignored and more effective means of dealing with them must be found.
- 5.2 Trading standards authorities are doing what they can with limited resources and legislation that is not always effective. Local authorities' response to this problem is, to say the least patchy, offering very different levels of service and community protection depending on where a victim, or potential victim, lives. As well as the 'rapid response' and disruptive enforcement techniques of larger authorities, many have a limited education and awareness programme. Often these are in run in conjunction with other organisations such as Victim Support, Neighbourhood Watch, CABx and crime reduction partnerships.
- 5.3 In enforcement terms, the most valuable partner any trading standards authority has is its local police force. Ideally, police officers will provide back up on rapid response calls and, if appropriate, will arrest traders for deception or similar offences. Evidence suggests, however, that police resources mean that this is not always the case. It is vital that authorities establish a good working relationship with the police. There is much evidence of this with authorities such as North Yorkshire, Dorset and Essex undertaking training with the police. Many authorities also link into police operations on the wider issue of artifice crime such as Operation Litotes (Dorset), Operation Liberal (Derbyshire) and Operation Michaelmas (Enfield). Other authorities, such as Edinburgh and Bury, are just beginning to establish a partnership with the police and are using other authorities' experiences as a starting point.

- 5.4 Apart from tracing and identifying the trader, the biggest hurdle to enforcement action is the reluctance or unsuitability of complainants to give statements and appear in court.
- 5.5 Most of the operational officers interviewed for this report consider a ban on cold calling, perhaps in relation to a specific problem trade sector, to be the most effective way of dealing with the problem. This would mean that anyone seen engaging in the activity could be arrested (obviating the difficult process of tracing the trader after the event) and, if appropriate, proceedings taken on the basis of statements from enforcement officers rather than vulnerable and reluctant individuals. It would also ease the taking of prosecutions in Scotland as two officers could give corroborating statements.
- 5.6 The general view of those interviewed is that reputable traders do not need to cold call to obtain business. Very few authorities interviewed had a home authority company in their area that cold calls. Such are the difficulties inherent in finding reliable tradesmen, because they are all busy, that many authorities are setting up trade approval schemes to help consumers access traders. The trade themselves would generally welcome such a ban, for example, the Federation of Master Builders strongly supports the idea.
- 5.7 Although it was acknowledged that the inclusion of an offence within the Consumer Protection (Cancellation of Contracts Concluded away from Business Premises) Regulations 1987 in relation to failure to notify of cancellation rights was an improvement, most officers interviewed felt that the legislation needed further strengthening. Clarity is required in the definitions of 'unsolicited' and 'solicited' as traders are eager to exploit the perceived loophole, and magistrates are unlikely to give a sympathetic hearing to an advocate attempting to explain the, at present, often fine distinction between the two. Statutory requirements as to the wording and prominence of cancellation rights is also thought necessary. The penalties received in respect of recent prosecutions in North Yorkshire under these regulations illustrate the lack of seriousness with which magistrates view the offence.
- 5.8 The worst cases of doorstep selling involve itinerants or other traders who regularly change identity and premises. It is clear from the statistics and complaint histories that many problem companies work on a regional or national basis. Improved communications between enforcement authorities might help, but its effect is likely to be limited. Some authorities are working on local and regional databases, often in conjunction with the police, but

there is little evidence that this will make a significant contribution to investigation or detection. The difficulties found in obtaining statistics for this report highlights the need for individual authorities' own complaints databases to be improved, by the use of appropriate coding.