



VCA ANNUAL REPORT of ACTIVITIES

**The Waste Batteries and
Accumulators Regulations 2009**

**VCA Enforcement Report
for Defra
(April 2014 to March 2015)**



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1. Introduction

Defra appointed the Vehicle Certification Agency (VCA) in November 2009 to enforce the portable battery distributor provisions of the Waste Batteries and Accumulators Regulations 2009 (the 'Regulations').

This report provides a summary of:

- Enforcement activities conducted by VCA during the fifth year of distributor regulation, from April 2014 to the end of March 2015 (Year 5);
- Observed levels of compliance with the distributor regulations in Year 5;
- Comparative observations with levels of compliance identified during the first four years of VCA activities;
- Expectations for future VCA regulatory activity.

2. VCA enforcement approach and activities

The agreed approach to VCA enforcement activities in Year 5, specifically in light of the continuing review of the battery regulations, continued to be intelligence-led and remained focussed on the education of those distributors, small and large, requiring assistance to meet their legal obligations. These were considered the activities which would have the most impact on improving compliance and ensuring consumers had access to battery take-back services.

In accordance with agreed policy, battery inspections were accordingly linked to VCA regulation of WEEE distributors in order to achieve value for money and reduce demand on distributor resources.

The VCA analyses compliance findings and identifies priorities for the enforcement team on a regular basis. Due to the on-going review of the regulations in Year 6, it is expected that activities will continue to balance education and assistance to compliance across the full range of portable battery distributors.



The VCA undertakes enforcement activities in three separate areas:

1. Market Research – An unannounced visit which aims to identify the compliance of distributors as would be experienced by a member of the public interested in disposing of waste portable batteries.
2. Enforcement – A more official approach to identifying the compliance of distributors. VCA Enforcement Officers formally introduce themselves to the retailers and identify the compliance of the retailer against their regulatory obligations.
3. Administrative support – The Administration Team support VCA's field workers, follow up reported non-compliances with standard letters and enquiries, giving advice to distributors and play a key role in bringing them into compliance. They also support the distributor and the householder via the operation of the WEEE & Batteries helpline.

The Agency also works with a wide range of stakeholders to support its enforcement activities. In particular, the VCA has worked with various Trade Associations, distributors and Battery Compliance Schemes to raise awareness of the requirements of the regulations.

The summary findings of these visits are described below.

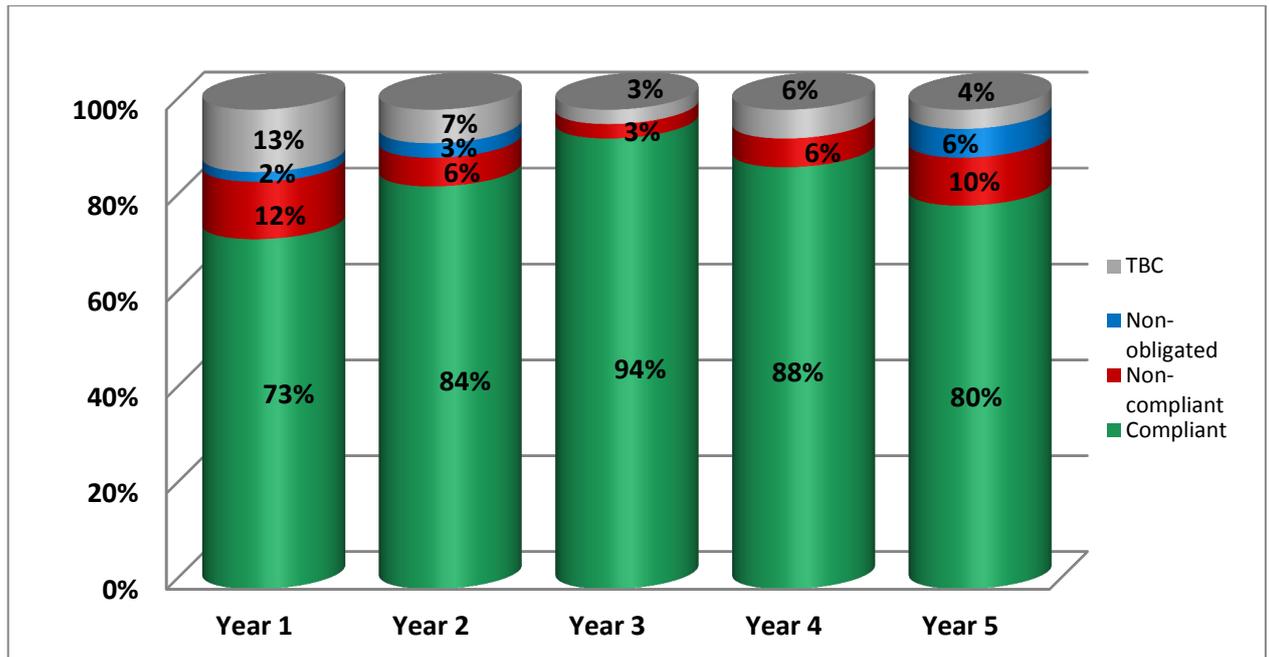
2.1 Market Research

In agreement with Defra, VCA market research activity was conducted at intervals throughout Year 5 at a wide range of retail outlets. The distributors were selected from intelligence gathered at previous battery and WEEE inspections to represent distinct areas of the retail market (for example, supermarkets, electrical, DIY etc.) as well as a number of SME's (independent stores or small chains).

Market Researchers may be unable to identify whether a distributor is exempt from obligations under the Regulations as a 'small distributor'. In these cases, an overall assessment of 'To Be Confirmed' ('TBC') is recorded until Administrative Officers have confirmed whether the distributor is required to comply with the legislation. The majority of TBC cases tend to be subsequently identified as non-compliant stores as compared to non-obligated. To date, all these non-compliant stores have been assisted to compliance with VCA support.

As can be seen from **Figure 1**, the compliance level found from market research inspections has consistently been high. The slight drop in compliance levels identified in Year 5 may simply reflect the nature of stores selected for inspection.

Fig. 1 Average Market Research findings from Years 1 to 5 (initial inspections)



As in previous years, as well as being used to inform subsequent VCA enforcement activity, VCA market research findings are reported to individual distributors. An understanding of their customer's experience as identified from market research operations is positively received by industry and a prime motivator in achieving improved compliance performance over time. Defra are keen for market research to play a continuing part of regulation and Year 6 will see a similar approach to this work with distinct periods of intelligence-led inspections across a range of distributors.

2.2 Enforcement Inspections

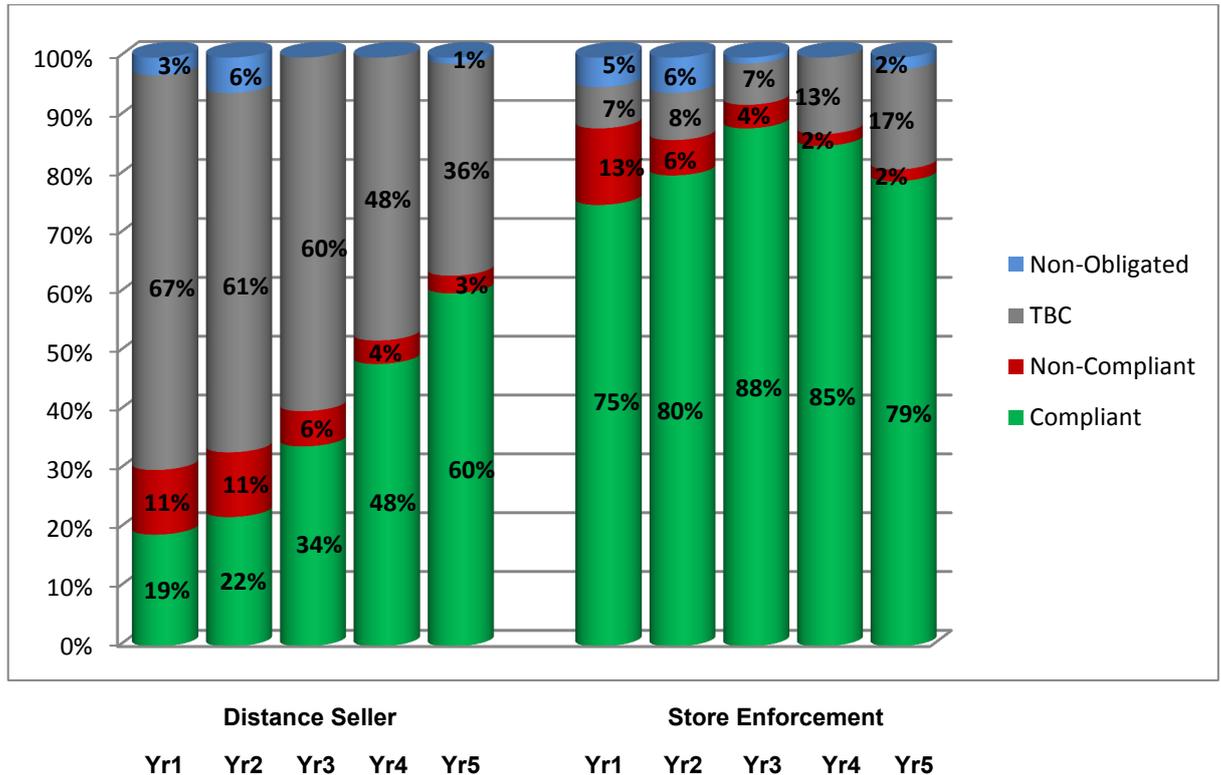
As identified previously, formal enforcement activity assesses the compliance of both stores supplying batteries and distance suppliers.

It is apparent from initial VCA inspections that compliance with battery distributor obligations has been consistently high for store distributors and has improved year-on-year for distance suppliers (**Figure 2** below). Anecdotally this would appear to be due to good awareness of distributor obligations across the battery retail industry as well as a willingness amongst all distributors to improve their 'green' credentials (and possibly generate customer 'footfall') by providing take-back facilities.

The reduced likelihood of generating business from end-users for distance suppliers may, however, be reflected in the comparatively lower compliance rates found for these distributors. Distance suppliers recognise an obligation to provide a take-back service at the point where batteries are supplied, but as this may not be a practical route for their customers, they will often signpost more accessible options such as Household Waste Recycling Centres or High Street stores.

Other than meeting a legal obligation, potential business benefits for distance suppliers in providing a take-back service may be seen as limited and potentially demotivating.

Fig. 2 Summary of distance supplier and store findings from Years 1- 5 - initial inspections



Feedback from VCA Enforcement Officers has also identified a willingness amongst distributors of all sizes to participate in offering store take-back services for their customers. More often than not customer behaviour will dictate which store/distributor they will choose to take up these services, often passing several obligated stores to drop off waste batteries at their 'usual' location. This can result in large amounts of batteries collected at one store that may well be in the vicinity of several other, similar venues.

Additionally it has been found that in rural areas there is often only one store/distributor offering a take-back service and, even though they may not be obligated to do so, see such provision as a community service. In such circumstances, comparatively large amounts of waste batteries may be collected at moderately smaller locations.

The proportion of 'compliant' findings from initial inspections is greater for store inspections, reflecting previous comments that each distance seller inspection is more likely to be an independent distributor thus disallowing potential compliance across many stores from one communication to a distributor head office.

The slight drop in store compliance findings in Year 5 would appear mainly contributable to an increased proportion of TBC findings, reflecting the nature of retailers inspected. The noticeable improvement in distance supplier compliance findings in Year 5 may well reflect both an improved knowledge of legal obligations by these distributors and the result of VCA 'revisit' checks to previously non-compliant sites.

As would be expected, the number of TBC cases identified at first inspection for distance suppliers is far greater than at store inspections due to the lack of further investigation possible when interrogating, for example, websites.

Across all five years of VCA enforcement activity it can be seen that the number of identified non-obligated ('small') distributors has been consistently small for both types of suppliers



(distance and store), with nil or negligible findings in Years 3 to 5. This would be expected for distance suppliers, where confirmation of battery supply figures at first inspection is rare and only arising, for example, from information supplied in advance to VCA by a provider of several different websites that have subsequently been inspected. For store suppliers it would seem that the majority of larger distributors have adopted a 'blanket' approach to the provision of take-back services, thus precluding a store-by-store assessment of a 'small distributor' exemption. In addition, many 'store-by-store' distributors and SME's are unable to provide clear evidence of exemption at the initial store inspection, supporting the above findings.

The number of outstanding TBC cases resulting from both types of inspections is negligible. This reflects the prompt contact and subsequent communication delivered by VCA staff in supporting distributors following an initial inconclusive assessment. Working with Defra, practical solutions have also been provided to distance suppliers to assist them in both meeting their legal obligations and informing their customers of potentially more accessible routes for disposal of their waste batteries. Whilst there will always be a number of distributors who delay or actively avoid responding to VCA guidance, these are very much in the minority.

The percentage of cases closed by VCA is consistently high for both types of inspections, again indicating the impact the Agency has had in assisting non-compliant distributors to meet their obligations.

3. Administrative Support

The Administrative Support is vital to the effective functioning of the whole VCA team. They operate the Battery helpline and coordinate all enquiries, from distributors and householders, collate data from the field and correspond with and give guidance to all distributors visited.

In excess of 1750 activities and enquiries have been addressed by the support team during this reporting period.

4. Summary

As findings from enforcement inspections show, the team have been making a marked impact on compliance levels across the UK.

During this reporting period VCA was subject to a New Commercial Model (NCM) project that ultimately resulted in the WEEE and Portable Batteries work streams being transitioned to the Department for Business, Innovation and Skills (BIS) from 1st April 2015. Continued regulation will be delivered within the National Measurement and Regulation Office (NMRO).

In year 6 we will continue to work at raising distributor awareness and understanding of their legal obligations as well as contributing to the planned review of the battery regulations in partnership with Defra and other stakeholders. We will continue to work with other enforcement agencies to assist in the identification and tracking of potential offenders.

S NORTH

Battery Enforcement Manager
June 2015