

London Boroughs Of Brent And Harrow **Trading Standards Service**

ENFORCEMENT POLICY

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1. INTRODUCTION

This document follows the high level Joint Regulatory Services Enforcement policy and gives specific details that relate to the Trading Standards Service when carrying out its enforcement activities.

The Trading Standards Service is a front line Service, run on a partnership consortium basis by the London Boroughs of Brent and Harrow. Both authorities have joint responsibility, and the Service carries out their statutory obligation to enforce over 45 different pieces of criminal consumer protection legislation, numerous EC Directives, sub-ordinate legislation, codes of practice and guidelines. The Service also provides limited civil law advice in certain circumstances.

We have drawn up clear standards, in consultation with business and other relevant interested parties, setting out the level of service and performance that our customers can expect to receive. We publish these standards and our annual performance against them, which will be readily available. This policy document describes how the Service will ensure that the practices described in that are followed.

The overall aim of the Trading Standards Service is “to ensure a safe, fair and equitable trading environment exists for consumers and commerce alike”. This aim is achieved by enforcement of the legislation assigned to the Service, with due regard to the overall objectives.

The priorities for the Service are:-

- ◆ Investigation of consumer complaints.
- ◆ Verification of trade equipment.
- ◆ Advice to traders and consumers.
- ◆ Inspection of relevant trade premises.
- ◆ Warning and prosecuting offenders where appropriate.
- ◆ Partnership working with other organisations.
- ◆ Promotion of these objectives to the community.

This policy explains the approach adopted by the Service when carrying out the two Councils' duty to enforce a wide range of legislation. It is written in general terms as it is intended to be applied in a wide range of situations.

2. SERVICE STANDARDS

The Service will:

- ◆ *Undertake a programme of routine inspection of trade premises based on risk assessment. The number of inspections will be determined each year depending on resources and published in our Service Operational Plan.*
- ◆ *Offer preventative advice to businesses within the Consortium.*
- ◆ *Work with business and other agencies to achieve our objectives.*
- ◆ *Provide an initial response to business enquiries within two working days and a written response if requested within ten working days.*
- ◆ *Carry out verification tests of metrology equipment within ten working days of request.*
- ◆ *Investigate all relevant criminal complaints and in doing so, contact all complainants within three working days of receipt of complaint and keep them informed of progress on unresolved issues on a monthly basis.*
- ◆ *Answer all telephone calls within 15 seconds.*
- ◆ *Provide self-help advice wherever possible for civil law enquiries.*
- ◆ *Institute court proceedings wherever necessary, in accordance with paragraph 9 but before instituting proceedings, satisfy ourselves that there is sufficient admissible evidence of a criminal offence, having regard to any statutory defences which may be available and that proceedings are in the public interest.*
- ◆ *If we owe money, pay valid invoices within 28 days of receipt.*
- ◆ *Be helpful, courteous and deal with users of the Service in a friendly manner.*

The effectiveness of legislation in protecting society depends largely on the compliance of those businesses subject to regulation. The Trading Standards Service recognises that most businesses and individuals want to comply with their legal obligations. We will, therefore, take care to help business and others meet those obligations without unnecessary expense whilst taking firm action against traders who flout the law or act irresponsibly, including prosecution where appropriate.

3. OPENNESS

We will provide information and advice on the rules that we apply in plain language and will disseminate this as widely as possible. We will be open about how we carry out our work, including any charges that we set, by consulting business, voluntary organisations, charities, consumers and workforce representatives. We will discuss

general issues, specific compliance failures or problems with anyone experiencing difficulties.

The Service will:

- 1) *Carry out at least 3 surveys of our users each year.*
- 2) *Hold two meetings a year of each of our focus groups.*
- 3) *Seek public opinion on our priorities and other matters through our website.*
- 4) *Publish a customer charter.*
- 5) *Publish and distribute regular newsletters.*
- 6) *Seek and take into account other stakeholders views and opinions.*
- 7) *Publish an Annual Report and Service Operational Plan.*
- 8) *Publish "in-house" leaflets giving advice in plain language on a range of aspects of Trading Standards legislation and these to be available in ethnic languages if requested.*
- 9) *Keep in close contact with local businesses, advising them about compliance with Trading Standards legislation and how to set up procedures to achieve that compliance.*
- 10) *Ensure confidentiality for both businesses and users of the Service*

4. HELPFULNESS

Information and advice will be provided in plain language on the rules that we apply and we will publish this as widely as possible. We will be open about how we set about our work, including any charges that we levy. We will discuss general issues, specific compliant failures or other problems with anyone experiencing difficulties. Whenever an officer requires a business to comply with legislation then the officer shall make it clear as to whether or not it is a specific legal requirement or best practice. We believe prevention is better than cure and we will work with businesses to advise and assist with compliance. We will provide courteous, prompt and efficient service and our staff will identify themselves by name. We will provide a contact point and telephone number and will encourage customers to seek advice and information. On request, this policy will be made available on tape, in Braille, large type, or in a language other than English.

5. PROPORTIONALITY

We will minimise the costs of compliance for business by ensuring that any action we require is proportionate to the risks. As far as the law allows, we will take account of the circumstances of the case and the attitude of the operator when considering action. The Service will:

- 1) *Ensure that when taking enforcement action under the legislation, the enforcement will be proportional to the public risk. This means that criminal prosecutions will be commenced when there is sufficient admissible evidence and*

that the proceedings are in the public interest. Where appropriate, formal cautions under Home Office guidelines, or written warnings will be used instead of prosecutions.

- 2) *Operate the LACORS Home Authority Principle, ensuring national companies with head offices within the Consortium area receive regular advice on Trading Standards legislation.*
- 3) *Work with small businesses through our Business Partnerships and through contact following complaints or routine inspections.*
- 4) *Give regular talks on Trading Standards issues to businesses and trade associations.*

6. CONSISTENCY

Officers are expected to use their professional judgement in individual cases and we have clear standards in place to promote consistency, including process monitoring procedures and arrangements for liaison with other authorities and enforcement bodies through schemes such as those operated by the LACORS Home Authority principle.

The Service is externally accredited to ISO 9001, which ensures written procedures exist for all key areas of work. Consistency is achieved through officers following the procedures and being audited against them. A pan-London Service Improvement Group meets regularly to ensure best practice and consistency of service delivery. The Group assesses key processes to provide benchmarking information.

The Service will:

- 1) *Carry out surveys to ensure that consistency and quality of service is provided to Service users.*
- 2) *Ensure Senior officers regularly check all work carried out by officers, including infringement reports and complaints received for further action, to ensure consistency.*
- 3) *Regularly meet with colleagues in other Trading Standards Services to ensure consistency of approach for enforcement and advice across North West London and Greater London.*

7. COMPLAINTS

The Service is subject to Brent's corporate complaints procedure, and has publicised this in the Service newsletters, customer charter and other Trading Standards leaflets. The procedure is available to all users of the Service with complaint forms available from the Trading Standards office, other council buildings and our website. Complaints about the Service can be also be made via any other Council department. The complaints procedure has 3 stages:- the first stage is dealt with by a senior officer within the Service; the second stage is dealt with by an independent officer, either in Brent or in Harrow; and the third stage is dealt with by the respective Chief Executive's nominee.

Each stage has defined time limits for a substantive response. There is a right of appeal up to third stage level. The subject matter of any complaints received are regularly reviewed and analysed by the Service Management Team to establish trends and to seek continual improvement.

8. AUTHORISATION OF OFFICERS

Officers who undertake criminal investigations will not only be authorized but will be conversant with the provisions of the Police and Criminal Evidence Act, the Criminal Procedure and Investigations Act 1996 and other legislation in so far as it affects general enforcement. The Trading Standards Service is a public authority for the purposes of the Human Rights Act 1998, so staff must apply the principles of the European Convention on Human Rights in accordance with the Act.

9. LEVELS OF ENFORCEMENT ACTION

Legislation may be enforced by one or a combination of methods:-

- ◆ Promotion: to raise awareness about legal requirements and promote good practice. This is typically achieved by the issuing of press releases, distributing leaflets, other forms of written guidance available to the public and businesses, and by face-to-face contact.
- ◆ Informal warnings: these will be used to reinforce promotional activities where, whilst the law may have been broken or where a minor offence had been committed, it was not felt appropriate to take any other action. An informal warning can be oral or written. If it is believed by the recipient that such a warning is inappropriate or unjustified then this policy allows for the decision to be reviewed by a senior officer.
- ◆ Formal enforcement: this includes the use of statutory (legal) notices, the refusal to grant or revoke a licence or registration, formal cautions, prosecution or an injunction under the Enterprise Act style legislation. This course of action would be taken following procedures laid down in legislation, codes of practice and professional guidance notes.

10. LIAISON

The Trading Standards Service will co-ordinate their enforcement activity to maximise the effective enforcement of any matters that are related to more than one of the regulatory services or agencies. Where an enforcement matter affects a wide geographical area beyond the Service's boundaries, or involves enforcement by one or more other local authorities or organisations, all relevant authorities and organisations will be informed of the matter as soon as possible and all enforcement activity co-ordinated with them. Monitoring that appropriate and full liaison is undertaken will be carried out by scheduled internal quality audits in accordance with ISO 9001.

11. REFERENCE SOURCES

- ◆ The Cautioning of Offenders. Home Office. Circular 18/1994, 15th March 1994. (www.homeoffice.gov.uk)
- ◆ Code for Crown Prosecutors. November 2004 (www.cps.gov.uk)
- ◆ Regulation of Investigatory Powers Act 2000 and code of practice on the Act (www.homeoffice.gov.uk/ripa)
- ◆ Code of practice B to the Police and Criminal Evidence Act 1984 (s.60(1)(a) and s.66) (<http://www.homeoffice.gov.uk/pcrg>)
- ◆ Data Protection Act 1998 and the Freedom of Information Act 2000. (Department of Constitutional Affairs, www.dca.gov.uk).

12. POLICY IMPLEMENTATION & REVIEW

The implementation and operation of this policy will be monitored by each service and corrective action taken where necessary. Departures from the policy will be exceptional and where they do occur, the reasons for the departure will be recorded. The policy will also be periodically reviewed and the views those people whom may be affected by it, will be sought.