

**TRADING STANDARDS SERVICE  
INFRINGEMENT/PROSECUTION POLICY**

**1. INFRINGEMENT POLICY**

1.1 It is the policy of the Service, when dealing with all infringements:

- (i) to ensure uniformity, consistency and even-handedness; and
- (ii) to specify and to observe criteria for alternative courses of action; and
- (iii) to take action which assists the prevention of potential, continuing or recurring infringements of a similar nature.

1.2 When we find a contravention of the law, we can take a variety of actions, including:

- Verbal or written warning
- Indirect action eg referral to another authority for action
- Undertaking to ensure future compliance
- Injunction - Enforcement Order under the Enterprise Act 2002
- Suspension, seizure or voluntary surrender of goods
- Formal Caution (formal admission that an offence has been committed)
- Prosecution and/or forfeiture of goods

Before any legal action is taken there will be an opportunity to discuss the case, although when we are considering a prosecution this will be at a formal interview. In less serious cases, as an alternative to prosecution, we may give the option of signing a formal admission that an offence has been committed.

1.3 Decisions on the type of action which will be taken in relation to a particular incident are based on the following criteria.

- a) the nature of the alleged offence
- b) the seriousness of the alleged offence
- c) the status, circumstances, previous history etc. of the alleged offender
- d) the reliability and scope of the evidence, including the likelihood of the alleged offender being able to establish a statutory defence.
- e) the desirability, in terms of benefit to the community, of a particular course of action
- f) regard to authoritative advice, guidelines and recommendations, including Appeal Cases.
- g) any explanation offered by the alleged offender and his willingness to prevent a recurrence.

These criteria are based on those in the Code for Crown Prosecutors and other relevant codes and guidance.

## **2. PROSECUTION POLICY**

- 2.1 We recognise that most businesses wish to comply with the law. However, there are occasions when action, including prosecution, will be taken against those who flout the law or who act irresponsibly. Those matters which involve intentional, repeated or reckless acts and those concerned with public safety will be specifically reported and considered for prosecution.
- 2.2 When a decision whether or not to prosecute is being made, the principal criteria (from the Code for Crown Prosecutors) which will be considered are:
  - i) whether the standard of evidence is sufficient for there to be a realistic prospect of conviction; and
  - ii) whether a prosecution is in the public interest.
- 2.3 Having decided to prosecute, the policy of the Service is to proceed without unnecessary delay and to select offences which reflect the seriousness of the case, enable a court to exercise adequate sentencing powers and permit the case to be presented in a clear and concise manner. In appropriate circumstances, applications for confiscation of defendants' assets may be made under proceeds of crime legislation.
- 2.4 We take into account the relevant aspects of the European Convention on Human Rights and the Human Rights Act 1998 as part of our decision making process.