

**TRADING STANDARDS SERVICE
STATEMENT OF ENFORCEMENT POLICY**

1. Introduction

- 1.1 The main aim of the Service is “To encourage and maintain a fair and safe trading environment” in Northamptonshire. The Service has a wide range of objectives and activities, but its basic role is in the area of regulatory control as a statutorily-based law enforcement agency.
- 1.2 This document details the enforcement policy of the Service. The purpose of enforcement action is to achieve compliance with consumer protection and fair trading laws for which the County Council has a responsibility.
- 1.3 The Service is committed and signed up to the principles of good enforcement contained in the Enforcement Concordat published by the Better Regulation Unit. This document supplements the policy and procedures in the Concordat.
- 1.4 A summarised version of this policy is also published as a separate document. (Business Information Leaflet BUSO08).

2 Enforcement Policy

Objectives

- 2.1 The objectives of the enforcement policy, and its implementation procedures, are to improve the service provided, by -
 - i) specifying standards and criteria for different enforcement actions;
 - ii) monitoring the uniformity and consistency of actions;
 - iii) applying risk assessment techniques to focus attention on areas of meaningful benefit to the community.

And to improve the transparency of enforcement, by -

- i) consulting with affected persons, where practicable, on the needs for advice, guidance and development of enforcement programmes;
 - ii) publishing relevant details from Service operational plans, policies and procedures;
 - iii) publishing the manner in which customer complaints and appeals against enforcement action may be made;
- 2.2 The following statements with accompanying details, represent the enforcement policy of the Service.
 - (i) We direct enforcement emphasis - inspection of premises, examination and testing of foods, checking of claims etc - towards those matters where an assessment of relevant factors indicates the greatest risk to public health or safety, or to the economic well being of the community.**

Specific enforcement objectives and activities are contained in the Service Plan and Work Programme, which are published annually. The Service Plan takes account, where practicable,

of consultation with affected persons such as staff, consumers and businesses. Specific enforcement procedures are contained within the Service Quality Management System.

Inspection Programme

Premises are risk assessed and categorised to represent their priority, within a routine inspection programme. The category allocated to any given premise represents the maximum frequency for a comprehensive inspection. Risk assessments are based on the following broad factors: - metrology, safety, quality standards and fair trading.

The statutory Code of Practice, for inspecting businesses for compliance with the provisions of food legislation, prescribes inspection frequencies of 12, 24 and 60 months. The Code recognises that other enforcement work should be conducted at the same time (e.g. for weights and measures, safety, prices) and it is Service policy to make combined visits of this nature.

Inspections are also made to trade premises for other reasons and may be with prior notice or unannounced. For example, they may be made in responses to a complaint or enquiry, to advise on the effects of new legislation, to take sample or test purchases as part of a specific exercise or planned survey, or as a re-visit to check that previous advice has been followed.

The general frequency and priority of inspections is reviewed annually -individual premises may be re-assessed more frequently.

Sampling Programme

The purpose of the programme is to conduct market surveillance, to identify infringements and to prevent contraventions

The sampling and testing programme is designed to include checks in the following areas:-

- i) the accuracy and validity of descriptions and statements which are applied to goods and services
- ii) the safety of consumer goods
- iii) the quality and safety of food, in particular where compositional standards and labelling requirements exist and the accuracy of claims relating to properties, additives and ingredients of food
- iv) the quantity of goods
- v) the provision of price information and the truthfulness of price promotions
- vi) the compliance with other legal standards e.g. environmental and information requirements
- vii) compliance with other legislative requirements, e.g. relating to age-restricted products.

The programme incorporates samples/test purchases taken in response to a complaint, as a part of a planned survey/exercise or as a result of officer initiative. The programme sets out planned activities and targets for the year concentrating efforts into risked-assessed areas of trade or products in order to ensure the most effective use of resources.

(ii) We respond to requests for information or assistance and to allegations of infringement.

We acknowledge that alternative sources of help are also available - for example, businesses may wish to obtain information from a Trade Association, an independent consultant or a solicitor.

The Service will examine allegations and incidents to determine whether an investigation into potential criminal offences should be initiated or, in cases of malpractice which are not covered by legislation, whether other action may be taken

- (iii) We provide advice and guidance to enable businesses to comply with the law, having regard to nationally agreed practices and procedures.**

Whilst the fundamental responsibilities for complying with legislative requirements fall to the proprietors of businesses themselves, the Service will provide relevant advice and guidance. In doing so, we will have particular regard to information from legislative guidance notes, Statutory Codes of Practice and from the Local Authorities Co-ordinating Body on Food and Trading Standards.

In addition to the activities mentioned under (ii) above, we will endeavour to advise businesses of relevant legislative requirements by publicity and information leaflets.

- (iv) We set, and publish, criteria under which we decide the course of action that will be taken to deal with infringements.**

Document OP 7.1/08, contains the Service policy for dealing with infringements and incorporates the prosecution policy of the Service. A summarised version of this policy is published as a separate document (Business Information leaflet Trading Standards/TO6).

- (v) We publish standards of Service which members of the public and businesses are entitled to receive.**

The Trading Standards Service Charter, which is published as a separate document, specifies response times and general standards of service.

- (vi) We maintain Systems which are designed to ensure that all aspects of our enforcement activities are carried out to a uniform and consistent standard across the county.**

The Service Quality Management System provides for the regular monitoring and auditing of Service operating procedures and working practices. It is a key objective of the Service to seek constant improvement in the quality of service delivery. Section 3 of this document deals with the practical aspects of implementing the Service enforcement policy.

Where it is reasonable to do so, we make provision for the particular interests of consumers, business owners, employers and the public. For example, visiting businesses outside normal office hours at a time when the business is available; attending weekend markets and car boot sales etc..

- (vii) We maintain procedures for dealing with complaints about the services we provide and, where appropriate, for rights of appeal against decisions that we make.**

The Service Quality Management System and Service Charter set out the methods for making complaints or expressing dissatisfaction - whether informally or formally about the services we provide.

Any applicable rights of appeal, against enforcement decisions, will be made known to affected persons, at the time and in writing.

- (viii) We welcome feedback on our enforcement policy.**

We are particularly interested in responses from affected persons and we will try to incorporate comments, which assist us to meet the main aim of the Service, into future revisions.

However, as a local authority, we are unable to amend or repeal legislation - nor can we adopt a policy that contravenes a statutory duty.

3. Implementation of Service Enforcement Policy

3.1 General

3.1.1 The Service will ensure that officers who are employed to carry out enforcement activities -

- a) are appropriately authorised under the legislation concerned; and
- b) are assessed as competent to conduct the duties required; and
- c) are aware of, and comply with, the general principles of criminal law and gathering evidence, in particular the Human Rights Act 1998; and
- d) have undergone training in the implementation of the Service enforcement policy and policy for dealing with infringements.

3.1.2 The Service will maintain a management system which

- a) monitors the frequency and nature of enforcement and;
- b) is designed to ensure, so far as practicable that enforcement activities are carried out to uniform and consistent standard; and
- c) monitors compliance with the Service enforcement policy and policy for dealing with infringements.

3.1.3 Officers will regard as a priority the investigation of alleged criminal offences especially those matters involving intentional, repeated or reckless acts and those concerned with public safety.

3.1.4 Officers will recognise the necessity of providing advice and assistance in order to prevent potential, continuing or recurring failures to comply with legislative requirements. In providing advice and assistance, officers will have regard not only to current legislative provisions but also to statutory codes of practice and other relevant 'good practice' guidelines or standards. Where appropriate, officers will indicate impending changes or developments which are likely to affect the advice given.

3.1.5 Officers will clearly draw a distinction between requirements to comply with legal obligations and other recommendations.

3.1.6 Officers will have regard to applicable Service operational guidelines and standards when carrying out any enforcement activities.

3.2 Enforcement Visits

3.2.1 When conducting enforcement visits, other than for test purchasing or similar purposes, officers will

- a) make their identity known; and
- b) explain the purpose(s) for which they are visiting the premises; and
- c) where applicable, explain that premises may also be visited, on other occasions, by officers of the Service or other enforcement agencies for different purposes.

3.2.2 Officers from Trading Standards will make combined visits with other enforcement agencies in accordance with agreed procedures where there is a shared and complimentary enforcement

role e.g. to food premises in accordance with Code of Practice No 3 under the Food Safety Act 1990.

4. Home Authority Principle

- 4.1 It is the policy of the Service to act as Home Authority for businesses which have their decision making base in Northamptonshire and which act in accordance with the responsibilities outlined in the Local Authorities Co-ordinating Body on Food and Trading Standards document "Home Authority Principle".
- 4.2 Officers will observe the Principle, particularly when dealing with alleged infringements, by notifying the relevant Home Authority at the earliest practicable time and at the conclusion of enquiries.

5. Appeals etc Procedures

- 5.1 Where an officer makes a decision as to the imposition or otherwise of a sanction (in accordance with Service policy) for a failure to observe or comply with a legal obligation, he will also make the person(s) affected aware of any procedures whereby such person(s) might appeal etc against this decision. In all cases, the procedure for appeals etc will be notified in writing.

6. Review of Policy

- 6.1 The Service enforcement policy will be reviewed at not more than yearly intervals and amendments will be made, as appropriate.
- 6.2 Amendments to the policy may also be made at other times as a result of identified improvements which contribute to the main aim of the Service.
- 6.3 Review of the enforcement policy will take account of any responses received from affected persons and any other relevant comments.
- 6.4 Compliance with this policy will be monitored on an ongoing basis and any variation from it will be set out in our Service Plan for the following financial year