

## **Enforcement Policy**

### **Introduction**

This document sets out what business and others being regulated can expect from us and explains the Enforcement Policy of the Nottinghamshire County Council Trading Standards Service.

It provides information on:

- Our principles of enforcement activities
- Our enforcement actions
- What you can expect from us
- How we can help consumers and businesses

This Enforcement Policy is based on the five principles of good regulation as provided by the Legislative and Regulatory Reform Act 2006 and the principles of good enforcement as set out in the Enforcement Concordat.

### **The Purpose of Our Enforcement Policy**

Trading Standards exists to promote and maintain a fair and safe trading environment, promote health and wellbeing throughout the community and protect the interests of consumers and legitimate businesses. We enforce a wide range of business and consumer protection legislation relating to quality, quantity, safety, description and price of goods and services. We carry out our duties in various ways including inspection, sampling, test purchasing, testing, investigation and legal proceedings, but also by informing, advising and educating businesses and consumers.

This policy has been developed in conjunction with TSEM\* and helps to promote efficient and effective approaches to regulatory inspection and enforcement, which improves regulatory outcomes without imposing unnecessary burdens. This is in accordance with our legal obligation to have regard to the Regulators Compliance Code.

In certain instances we may conclude that a provision in the Code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.

The effectiveness of legislation in protecting consumers and businesses depends on the compliance of those regulated. We recognise that most businesses want to comply with the law. We will endeavour to help these businesses and others to meet their legal obligations.

A list of Trading Standards legislation can be found in appendix 1.

If there is a shared enforcement role with other agencies eg Office of Fair Trading, DEFRA, Food Standards Agency, Environment Health and the Police, we will endeavour to coordinate with these agencies to minimise unnecessary overlaps or time delays and to maximise our overall effectiveness.

### **Our Enforcement Principles:**

#### **Targeting**

We aim to prioritise and direct our regulatory effort effectively. To achieve this, we will use comprehensive, intelligence led risk assessments to focus our resources of most need. The vast

amount of our formal enforcement activities will be focused on those who are criminally intent, flout the law or act irresponsibly.

### **Proportionality**

We will ensure that enforcement action is proportionate to all the circumstances surrounding a particular breach of legislation and that the sanctions applied are meaningful. We will also ensure that when any notices are served the appeals process is explained to the recipient.

Where there is a breach of legislation we can take a variety of actions which include:

- **Indirect Action** – including referral to another authority or agency for information and/or action.
- **Verbal or written warning** – where a relatively minor offence has been committed but it is not thought appropriate to take any further action. The suggestive corrective action and timescale will be given.
- **Statutory Notice** – these are notices which are prescribed by legislation and may only be issued in accordance with specific statutory provisions.
- **Fixed Penalty Notice** – these will be issued to deal with minor offences.
- **Undertaking / Assurance** – these may be sought to correct or prevent future breaches of the law, they may be on a voluntary basis or a statutory basis through the Civil Courts.
- **Civil Injunctions** – these will be sought to prevent breaches of the law.
- **Simple Cautions** – these will be used to deal with criminal breaches where Court action is deemed to be inappropriate. We will apply the guidance provided to Prosecutors in Home Office Circular 016/2008. Details can be found at [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk).
- **Enforcement Orders** – these are used to deal with breaches of criminal and/or civil breaches of law in accordance with the Enterprise Act 2002 and are sought through the Civil Courts.
- **Prosecution** – criminal breaches may be dealt with by prosecution, after having regard to the Services Prosecution Policy and the Code for Crown Prosecutors.

In appropriate circumstances the Service, sometimes working in partnership with other agencies will seek other penalties/sanctions such as:

- Action under the Proceeds of Crime Act 2002 to:
  - Disrupt criminal enterprises through the recovery of criminally derived assets.
  - To promote the use of financial investigation as an integral part of criminal investigation
  - To pursue suitable cases with a view to applying to the courts for restraint and /or confiscation of criminally derived assets.
- Victim compensation
- Revocation and review of licences
- Forfeiture of infringing goods

### **Accountability**

We will be accountable for the efficiency and effectiveness of our activities, whilst remaining independent in the decisions we take.

### **Fairness and Consistency**

We will treat all consumers and businesses fairly. No decision, response or action by the Service will be affected by the race, politics, gender, sexual orientation or religious beliefs of any suspected offender, complainant, witness or officer of this Service.

We will ensure that our enforcement practices are consistent; we will adopt a similar approach in similar circumstances to achieve similar ends.

All enforcement activity will be undertaken with due regard to the provisions of the Police and Criminal Evidence Act 1984, the Regulation of Investigatory Powers Act 2000 and the Human Rights

Act 1998. In particular we will respect a person's right to a fair trial, right to respect for private and family life and the protection of property.

We support the Primary Authority Partnerships Scheme and enter into such agreements with businesses to promote good enforcement practice and reduce unnecessary burdens.

### **Openness and Transparency**

We are committed to the open provision of information and advice in a format that is accessible, easily understood and implemented. We will also ensure that there is always a clear distinction between those actions necessary to comply with the law and those which we recommend as best practice and are not compulsory.

Our decisions in terms of any potential legal proceedings are explained in the Service's Prosecution Policy.

A list of all legislation currently enforced by the Trading Standards Service can be found at the end of this policy document.

### **Availability of this Policy**

This Enforcement Policy is made available to anyone and is published on the Nottinghamshire County Council website at [www.nottinghamshire.gov.uk](http://www.nottinghamshire.gov.uk). The Service's Prosecution Policy is also available at [www.nottinghamshire.gov.uk](http://www.nottinghamshire.gov.uk).

### **Commenting on this Policy**

Anyone wishing to make any comments about the content of this Policy or the manner of its application is invited to send them to us by any of the methods shown below.

These comments will assist us in the continual monitoring and annual review of this Policy. This is important to help ensure that the Policy remains up to date and reflects the views of our community and changes in legislative requirements.

Please contact us should you require any further information on how we can carry out our work or can be of any further assistance to you. If you have a complaint about the provision of our service please feel free to contact us.

If you remains dissatisfied or feel that you cannot talk to us you may wish to complain direct to Nottinghamshire County Council. You may do this by any of the methods shown at [www.nottinghamshire.gov.uk](http://www.nottinghamshire.gov.uk).

\*TSEM comprises the County Councils of Nottinghamshire, Derbyshire, Leicestershire, Lincolnshire and Northamptonshire together with the City Councils of Derby, Leicester and Nottingham.

### **Contacting us:**

E-mail: [trading.standards@nottscc.gov.uk](mailto:trading.standards@nottscc.gov.uk)  
Telephone: 01623 452005  
Fax: 01623 452059  
Post: Trading Standards, County House,  
100 Chesterfield Road South, Mansfield NG19 7AQ  
Internet: [www.nottinghamshire.gov.uk](http://www.nottinghamshire.gov.uk)

## **Appendix 1: List of Trading Standards legislation – September 2011**

Administration of Justice Act 1970	Hallmarking Act 1973
Agriculture Act 1970	Health and Safety at Work etc Act 1974
Agricultural Produce (Grading and Marking) Acts 1928 and 1931	Housing Act 2004
Animal Health Acts 1981 and 2002	Insolvency Act 1986
Animal Health and Welfare Act 1984	Licensing Act 2003
Animal Welfare Act 2006	Medicines Act 1968
Anti Social Behaviour Act 2003	Motor Cycle Noise Act 1987
Cancer Act 1939	Motor Vehicles (Safety Equipment for Children) Act 1991
Celluloid and Cinematographic Film Act 1922	Olympic Symbol etc (Protection) Act 1995
Children and Young Persons Act 1933	Performing Animals (Regulation) Act 1925
Children and Young Persons (Protection from Tobacco) Act 1991	Pesticides Act 1998
Clean Air Act 1993	Petroleum (Consolidation) Act 1928
Companies Acts 1985 and 2006	Petroleum (Transfer of Licences) Act 1936
Consumer Credit Acts 1974 and 2006	Poisons Act 1972
Consumer Protection Act 1987	Prices Act 1974
Control of Pollution Act 1974	Proceeds of Crime Act 2002
Copyright, Designs and Patents Act 1988	Property Misdescriptions Act 1991
Courts and Legal Services Act 1990	Protection from Harassment Act 1997
Criminal Attempts Act 1981	Public Health Acts 1936 and 1961
Criminal Justice Act 1988	Road Traffic Acts 1988 and 1991
Customs and Excise Management Act 1979	Road Traffic (Foreign Vehicles) Act 1972
Development of Tourism Act 1969	Road Traffic Regulation Act 1984
Education Reform Act 1988	Scotch Whisky Act 1988
Energy Act 1976	Solicitors Act 1974
Enterprise Act 2002	Telecommunications Act 1984
Estate Agents Act 1979	Theft Act 1968
European Communities Act 1972	Tobacco Advertising and Promotion Act 2002
Explosives Act 1875	Trade Descriptions Act 1968
Explosives (Age of Purchase) etc. Act 1976	Trade Marks Act 1994
Fair Trading Act 1973	Trading Stamps Act 1964
Farm and Garden Chemicals Act 1967	Unsolicited Goods and Services Acts 1971 and 1975
Fireworks Act 2003	Video Recordings Act 1984, 1993 and 2010
Food Safety Act 1990	Weights and Measures etc. Act 1976
Food and Environment Protection Act 1985	Weights and Measures Act 1985
Forgery and Counterfeiting Act 1981	
Fraud Act 2006	

This information can be made available in other languages and formats. For further information please contact 01623 452 005