



## **TRADING STANDARDS ENFORCEMENT POLICY**

### **Introduction**

Trading Standards is a service that has a statutory responsibility to enforce a wide range of criminal consumer and trading legislation. In addition, other non-statutory legislation is enforced where this assists with the statutory responsibilities or where enforcement can contribute to making the London Borough of Richmond upon Thames a fairer and safer place to buy and sell goods and services or which assists legitimate businesses to be successful.

In most cases compliance is achieved through advice and assistance, but there are occasions when further action is required, action that can include prosecution through criminal courts.

### **Purpose and scope**

Our services are delivered in accordance with the Regulators Compliance Code and supporting Statutory Code of Practice, which can be seen on the [Department of Business Innovation and Skills](#) website.

The purpose of the Trading Standards Enforcement Policy is to explain the ways in which this service will enforce the law in accordance with the principles adopted by the department as a whole. The policy sets out what businesses and others affected by its regulatory responsibilities can expect from the service and assists staff in exercising enforcement powers. The policy applies to all Trading Standards personnel with enforcement responsibilities, and it will be reviewed as necessary in response to changing circumstances, such as new legislation or guidance.

### **Inspections and Other Enforcement Visits**

Trade premises in the borough will be routinely inspected on the basis of the Local Government Regulation (LGR) risk assessment scheme. In this scheme premises are classified as being high risk, medium risk, low risk or no appreciable risk. These inspections will be comprehensive in nature and at the end of the inspection the officer will hand over a Post Inspection Report (PIR) that will summarise the findings of the inspection.

Other visits may be made to premises in order to check on business compliance or otherwise assist traders to comply. These visits may include covert test purchases, sampling visits, visits in response to consumer complaints, etc.

## Enforcement Options

When legal breaches are detected the officer has the following range of options available:

- a) Advice
- b) Informal warning
- c) Written warning
- d) Simple caution
- e) Prosecution
- f) Enforcement Order \*

*\* only applicable where there is a persistent course of conduct detrimental to the collective interests of consumers.*

When the offence detected, should in the opinion of the officer be dealt with by way of c) to f) above, then the officer should consult with a Trading Standards Team Leader or the Head of Consumer Protection for an initial assessment as to which option is most appropriate. These initial views may be modified as more information becomes available.

For the guidance of officers when offences have been committed in any of the following circumstances then the minimum course of action should be a written warning. The Head of Consumer Protection in consultation with a Team Leader will consider any recommendation from the investigating officer in deciding whether more severe action, including prosecution, should be taken.

In considering whether to initiate a prosecution, the following matters will be considered:

- The offence was committed recklessly, knowingly, deliberately or fraudulently
- The offence had a significant effect on a consumer
- There have been repeated breaches
- The offence has been repeated or is likely to be repeated
- Violence has been used
- The offender was in a position of trust or authority
- The offender was a ringleader or organiser of others who committed the offences
- There are previous convictions or cautions for similar offences
- A significant penalty is the likely outcome if prosecuted
- The admissibility and reliability of the evidence and there being a realistic prospect of conviction
- Relevant matters in the Code of Conduct for Crown Prosecutors
- Any expressed views of victim or victims family
- Whether there has been any wilful obstruction of the officer investigating the offence
- Whether the offender has corrected any harm done to the victim

Where the offence relates to illegally selling, supplying or hiring goods to a minor (underage sale) then notwithstanding anything above the normal course of action should be a prosecution

Criminal proceedings should not normally be taken against an individual if he/she is not involved in the management or supervision of the business nor has any additional

responsibility for matters associated with the offence and is acting only in the course of their employment, unless the employee has contradicted the employer's instructions, is being deliberately obstructive or in committing the offence has acted unreasonably.

Where prosecution of offences against a corporate body have been considered, if it is believed the offence was committed with the consent or connivance or was attributable to any wilful neglect on the part of any Director of the body then legal action should be considered against that Director.

Legal action should not normally be taken against private individuals not acting in the course of their employment or in the course of a trade or business even though it may have been their act or default that caused the commission of an offence. However if that act or default was a deliberate act or default committed with a view to deceive or for gain then a prosecution should be considered

In relation to offences of overloading of vehicles or exceeding weight limits on the public highway there should be regard to the following guidelines in determining actions to take

- 0-5% and less than 1 tonne - Written warning
- Over 5% or 1 tonne - Prosecution
- Where proceedings are instituted the operator should normally be prosecuted.
- Where the driver is not the operator then proceedings should only be instituted against the driver if some degree of blame can be placed with him (e.g. he ignored instructions to check weight or he should have realised the vehicle was overloaded).
- Where an axle overloading is solely due to the vehicle being overloaded on the gross weight then information should not also be laid in respect of the axle overloading. If however the vehicle had been loaded unevenly then the additional offence(s) should be considered.

### **Investigation of Complaints**

This service works in partnership with Consumer Direct. All consumer enquiries are directed to Consumer Direct. Civil law complaints and enquiries are dealt with by Consumer Direct. However when it is apparent that such a complaint or enquiry is particularly complicated or requires examination of documents or the consumer is particularly vulnerable then Consumer Direct may refer the matter to the most appropriate organisation to deal with the matter. This will normally be the local Trading Standards Service to where the transaction took place.

Where the consumer complaint or enquiry is a matter of criminal law, Consumer Direct will refer the matter to the appropriate Trading Standards Service to deal with, that is, the Trading Standards Service where any criminal offences took place. When such criminal referrals are made to this Trading Standards Service the matter shall be investigated and any offences detected dealt with as above under the heading Enforcement Options.

## **Notifications**

This service will fully comply with any requirements for statutory notifications. This includes the requirement to provide the Office of Fair Trading (OFT) with Notice of Intended Proceedings under some legislation and to provide the Department for Business, Innovation and Skills (BIS) with statutory notifications in relation to suspension notices issued under safety legislation

The service will also provide the OFT with information about convictions in order to keep the Central Register of Convictions updated

## **Shared Enforcement Role**

For some legislation there is a shared enforcement role with the Police, the OFT, Environmental Health etc. The following paragraphs give guidance on how that responsibility is shared

Complaints about food standards and descriptions of food shall be passed to Environmental Health to be dealt with as they see fit under the Food Safety Act. Inspections of food premises and the sampling of foods to ensure accurate descriptions shall be the responsibility of Commercial Environmental Health. This will not preclude Trading Standards carrying out checks on the accuracy of descriptions of food products in trade premises where it is practicable and appropriate. For example checking the stated alcohol content of spirits or the checking of spirits for substitution of a different brand.

Any matters related to animal health and welfare, fertilisers and feeding stuffs the Agriculture Act and similar topics will be the responsibility of Commercial Environmental Health and will be referred to them accordingly.

Enforcement of the alcohol underage sales provisions of the Licensing Act 2003 is a shared responsibility between the Police and Trading Standards.

Trading Standards have a shared role alongside other qualifying bodies under the Unfair Terms in Consumer Contracts Regulations 1999. This service will accept complaints under the provisions of the regulations if the complaint is in relation to a trader in the borough. Other complaints shall be referred to the Office of Fair Trading or to the Home Authority of the company under the agreed protocol.

## **Partnership Working and Sharing Information**

This service works closely with a number of organisations, in particular with the London Trading Standards Association (LoTSA) and Consumer Direct. Consumer Direct receives all consumer enquiries on behalf of this borough and redirects those to Trading Standards which reveal potential criminal offences or which are complicated or where a vulnerable consumer is involved. The referrals are made in form and manner under agreed protocols and by secure electronic communication.

Trading Standards will often receive information that will be of relevance to other regulators investigating criminal offences. The policy is that such information should be provided to those other regulators providing that in doing so trade secrets are not given away and no officer commits any offence in providing that information. Information will be passed to the Police, Customs and Excise, the Medical Devices Agency, the Food Standards Agency, the Inland Revenue, other local Authority

Trading Standards Departments, the Royal Pharmaceutical Society the Office of Fair Trading etc.

### **Powers of Entry**

Trading Standards staff have considerable powers to enforce the law conferred on them by legislation. Some legislation grants authority to enter premises to inspect goods and documents. Refusal to permit entry may constitute the offence of obstruction. In particular some legislation enforced by Trading Standards allows, if necessary, entry by force upon production of a warrant issued by a Justice of the Peace. Normally a warrant would only be sought if entry had previously been refused or it is anticipated that entry may be refused and that pre-warning the occupant of entry would defeat the point of entering.

### **Forfeiture of Goods**

When criminal proceedings are instituted in relation to goods which inherently infringe legislation then the normal course of action would be to request the court that such goods should be forfeited. Examples of such goods are compact discs which infringe copyright or contain false trade marks, consumer products which are inherently unsafe in that they breach safety regulations, counterfeit clothing etc. In some circumstances a court can be requested to grant forfeiture of goods even though there is no prosecution of the alleged offender.

As an alternative to seeking a forfeiture order the owner of the goods may be asked to voluntarily sign over ownership of infringing goods to the Trading Standards Service.

When goods are the subject of a forfeiture order or are voluntarily handed over to Trading Standards then normally Trading Standards would arrange for their destruction. Occasionally it may be appropriate to donate goods to a suitable charity if the goods can be rendered legal through, for example, removal of infringing trade marks.

### **Primary Authority**

The service supports the Primary Authority (PA) scheme operated by the Better Regulation Delivery Office (BDRO).

The PA scheme enables businesses to form a statutory partnership with a single local authority which then provides robust and reliable advice for other councils to take into account when carrying out inspections or dealing with non compliance. It is the gateway to simpler, more successful local regulation. Further information is available at the [BRDO Primary Authority](#) website.

If a Primary Authority Partnership is entered into we will act as liaison between the company and other local authorities.

### **Verification Service**

The verification service will be provided to local businesses outside of normal hours, including weekend, evenings and bank holidays, if at all possible. The fees for such provision will be increased to reflect the additional personnel costs involved. Additionally we will try to meet customers at a location and time convenient to them and not be restricted to the office and office hours.

## Particular Customer Needs

This service will endeavour to be flexible in responding to customer needs by adapting the method of operation to suit the customer. In particular the following paragraphs apply in this regard

Service leaflets, letters or other documents are willingly translated into other languages utilising the Language Line subscription Service. There is no addition expense to the customer for this service. We will also arrange for interpreters when necessary.

## Contacts and Further Information

If you want further information about the services provided or the standards applicable please contact us or look at our website at:

[www.richmond.gov.uk/consumer\\_protection](http://www.richmond.gov.uk/consumer_protection)

If you are a trader and want information about trading laws contact us:

T: 020 8891 7117 F: 020 8891 7713

e-mail: [tradingstds@richmond.gov.uk](mailto:tradingstds@richmond.gov.uk)

If you are a consumer and want to make a complaint or enquiry please contact Consumer Direct by telephone or through their website:

T: 08454 04 05 06

[www.consumerdirect.gov.uk](http://www.consumerdirect.gov.uk)

If you require a personal visit please contact us and we will arrange to see you in your home, workplace or other place that is convenient to you.

## Trading Standards

Civic Centre  
44 York Street  
TW1 3BZ

[www.richmond.gov.uk](http://www.richmond.gov.uk)

If you need this leaflet in Braille, large print, audio tape or another language, please contact us on 020 8891 7117 or minicom 020 8831 6006

اگر آپ کو اس اشاعت کو سمجھنے میں کوئی مشکل ہے تو، براہ کرم نیچے دیئے ہوئے ایڈریس کے استقبالیے پر جا کر ملیئے، جہاں ہم آپ کیلئے ٹیلیفون انٹرپرائیٹنگ سروس (ٹیلیفون پر ترجمانی کی سروس) کا انتظام کر سکتے ہیں۔

Nese keni veshtersi per te kuptuar kete botim, ju lutemi ejani ne recepcionin ne adresen e shenuar me poshte ku ne mund te organizojme perkthime nepermjet telefonit.

إذا كانت لديك صعوبة في فهم هذا المنشور، فنرجو زيارة الإستقبال في العنوان المعطى أدناه حيث بإمكاننا أن نرتب لخدمة ترجمة شفوية هاتفية.

এই প্রকাশনার অর্থ বুঝতে পারায় যদি আপনার কোন সমস্যা হয়, নিচে দেওয়া ঠিকানায় রিসেপশন-এ চলে আসুন যেখানে আমরা আপনাকে টেলিফোনে দোভাষীর সেবা প্রদানের ব্যবস্থা করতে পারবো।

**اگر در فهمیدن این نشریه مشکل دارید، لطفاً به میز پذیرش در  
آدرس قید شده در زیر رجوع فرمایید تا سرویس ترجمه تلفنی  
برایتان فراهم آورده شود.**

જો તમને આ પુસ્તિકાની વિગતો સમજવામાં મુશ્કેલી પડતી હોય તો, કૃપયા નીચે જણાવેલ સ્થળના રિસેપ્શન પર આવો, જ્યાં અમે ટેલિફોન પર ગુજરાતીમાં ઇન્ટરપ્રિટીંગ સેવાની ગોઠવણ કરી આપીશું.

ਜੇਕਰ ਤੁਹਾਨੂੰ ਇਸ ਪਰਚੇ ਨੂੰ ਸਮਝਣ ਵਿਚ ਮੁਸ਼ਕਲ ਪੇਸ਼ ਆਉਂਦੀ ਹੈ ਤਾਂ ਹੇਠਾਂ ਦਿੱਤੇ ਗਏ ਪਤੇ ਉੱਪਰ ਰਿਸੈਪਸ਼ਨ 'ਤੇ ਆਓ ਜਿੱਥੇ ਅਸੀਂ ਟੈਲੀਫੋਨ ਤੇ ਗੱਲਬਾਤ ਕਰਨ ਲਈ ਇੰਟਰਪ੍ਰਿਟਰ ਦਾ ਪ੍ਰਬੰਧ ਕਰ ਸਕਦੇ ਹਾਂ।