

Notice of Meeting

Buckinghamshire Council and Surrey County Council Joint Trading Standards Service Committee

**Date & time**

Monday, 4 April
2022 at 11.00 am

Place

Woodhatch Place, 11
Cockshot Hill, Reigate,
Surrey, RH2 8EF

Contact

Angela Guest
Room 122, County Hall
Tel 020 8541 8987

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Members of the Committee

Kevin Deanus (Co-Chairman) and Nick Naylor (Co-Chairman)

Advisory Members:

Scott Lewis and Beville Stanier

AGENDA

1 APOLOGIES FOR ABSENCE

To receive any apologies for absence and substitutions.

2 MINUTES OF THE PREVIOUS MEETING - 22 SEPTEMBER 2021

(Pages 5
- 10)

To agree the minutes of the previous meeting.

3 DECLARATIONS OF INTEREST

All Members present are required to declare, at this point in the meeting or as soon as possible thereafter

- (i) Any disclosable pecuniary interests and / or

- (ii) Other interests arising under the Code of Conduct in respect of any item(s) of business being considered at this meeting

NOTES:

- Members are reminded that they must not participate in any item where they have a disclosable pecuniary interest

- As well as an interest of the Member, this includes any interest, of which the Member is aware, that relates to the Member's spouse or civil partner (or any person with whom the Member is living as a spouse or civil partner)

- Members with a significant personal interest may participate in the discussion and vote on that matter unless that interest could be reasonably regarded as prejudicial.

4 PROCEDURAL ITEMS

a Members' Questions

The deadline for Member's questions is 12pm four working days before the meeting (29/03/2022).

b Public Questions

The deadline for public questions is seven days before the meeting (28/03/2022).

5 PETITIONS

The deadline for petitions was 14 days before the meeting.

6 ACTION TRACKER AND FORWARD PLAN

(Pages
11 - 16)

The Committee is asked to monitor responses, actions and outcomes against actions and recommendations from previous meetings and to review and agree the Forward Work Programme.

- 7 PERFORMANCE AND JOINT SERVICE BUDGET** (Pages 17 - 40)
The Trading Standards Joint Committee are asked to note the Service's performance and the joint service budget for 2022/23.
- 8 TRADING STANDARDS ENFORCEMENT POLICY** (Pages 41 - 78)
The Trading Standards Joint Committee is asked to review and endorse an updated Enforcement Policy and agrees the Financial Penalty Guidance as required under the Tenant Fees Act and the Fixed Monetary Penalty Guidance for various food legislation.
- 9 TRADING STANDARDS TOBACCO WORK** (Pages 79 - 86)
The Trading Standards Joint Committee are asked to note the report.
- 10 TRADING STANDARDS CURRENT AND EMERGING ISSUES** (Pages 87 - 96)
The Trading Standards Joint Committee are asked to note the current and emerging issues.
- 11 DATE OF THE NEXT MEETING**
The next meeting of the Buckinghamshire Council and Surrey County Council Joint Trading Standards Service Committee will be held on 22 September 2022.

Joanna Killian
Chief Executive
Published: Friday, 25 March 2022

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Thank you for your co-operation

MINUTES of the meeting of the **BUCKINGHAMSHIRE COUNCIL AND SURREY COUNTY COUNCIL JOINT TRADING STANDARDS SERVICE COMMITTEE** held at 10.00 am on 22 September 2021 at Oculus, Gateway Offices, Gatehouse Road, Aylesbury, Buckinghamshire, HP19 8FF.

These minutes are subject to confirmation by the Committee at its meeting on Thursday, 24 March 2022.

Elected Members:

(*present)

- Nick Naylor (Co-Chairman)
- Mark Nuti (Co-Chairman)
- Sir Beville Stanier (non-voting) Buckinghamshire Council
- Scott Lewis (non-voting) Surrey County Council

In attendance

Steve Ruddy, Head of Trading Standards, Buckinghamshire and Surrey Trading Standards Service
Amanda Poole, Assistant Head of Trading Standards, Buckinghamshire and Surrey Trading Standards Service
Andy Tink, Senior Principal Accountant, Surrey County Council
Nigel Dicker, Head of Housing, Environment & Community Services, Buckinghamshire Council
Councillor Mark Winn, Deputy Cabinet Member for Homelessness, Buckinghamshire Council

15/21 APOLOGIES FOR ABSENCE [Item 1]

There were none.

16/21 MINUTES OF THE PREVIOUS MEETING [24 MARCH 2021] [Item 2]

The Minutes of the meeting held on 24 March 2021 were agreed as a correct record.

17/21 DECLARATIONS OF INTEREST [Item 3]

Councillor Lewis declared a personal interest as a Member of the Impact Food Group which had been involved in the development of Natasha's Law.

18/21 MEMBERS' QUESTIONS [Item 4a]

There were none.

19/21 PUBLIC QUESTIONS [Item 4b]

There were none.

20/21 PETITIONS [Item 5]

There were none.

21/21 ACTION TRACKER [Item 6]

RESOLVED:

The Joint Committee noted the Action Tracker. There were no outstanding actions to be considered.

22/21 FORWARD WORK PROGRAMME [Item 7]

Actions:

Item to be included at the next meeting reviewing upcoming legislation that would impact the responsibilities of the service.

RESOLVED:

Members agreed the forward work programme.

Members were encouraged to contact Steve Ruddy or Amanda Poole if they had any other suggested additions to the forward work programme between the conclusion of the meeting and the next meeting.

23/21 PERFORMANCE AND JOINT SERVICE BUDGET [Item 8]

Witnesses:

Amanda Poole, Assistant Head of Trading Standards, Steve Ruddy, Head of Trading Standards

Key points from the discussion:

1. The Officers introduced the report and the following key points were noted on service performance:
 - The impact of the Covid-19 pandemic had continued to disrupt general service performance into Q1 of 2021/22.
 - Pandemic-related disruption to the courts had severely impacted conviction rates. Members were informed that no convictions had been made in Q1 due to hearing dates being postponed and delayed as late as 2023.
 - Savings for residents in Q1 (£54,359) were down from last year, due in large part to a reduction in the number of Proceeds of Crime Act compensation orders issued as a result of court disruption.
 - A pilot scheme utilising doorbell cameras to pre-emptively combat rogue traders had seen a positive impact, both in the reported wellbeing of residents and a reduction in financial losses on the doorstep. It was hoped that further funding from National Trading Standards could be secured to expand the scheme.
 - Work continued to respond to complaints made against second-hand car dealers and to combat the supply of illicit tobacco.
 - The National Trading Standards Impact of Scams Interventions Calculator had estimated £431,651 had been saved for residents in avoided health and social care costs during Q1 as a direct result of the work surrounding scams intervention by the service.
 - The Office of Product Safety and Standards had continued to work closely with Trading Standards in signposting prospective partnership

businesses toward the service. The number of Primary Authority partnerships had increased to 131 in Q1.

- Services such as 'Eat Out Eat Well', 'Traders4U' and the partnership with 'TrustMark' continued. It had been agreed with Surrey Public Health that funding would be provided for a part time officer to expand Eat Out Eat Well in the Surrey area.
 - 8,642 unsafe or non-compliant goods had been prevented from entering the country in Q1. This was a lower total than last year, though this was due to the unprecedented levels of unsafe PPE that had been seized at the beginning of the pandemic in what were unusual circumstances.
 - £1,797 worth of illicit alcohol and tobacco had been seized from properties with the help of trained detection dogs. It was confirmed that HMRC would pay for the use of these dogs for the ensuing year.
 - As the disruption from the pandemic eased, work could resume on market surveillance projects. Members' attention was drawn to the case study in the report involving non-compliant safety shoes that had been sold to people undertaking dangerous construction work.
2. A Member asked if the lost income caused by the reduced numbers of Proceeds of Crime Act compensation orders would be recovered as pandemic-related disruption eased. Officers informed Members that this would be the case for some of the lost income, however, due to a reduction in the numbers of crimes (particularly doorstep scams) during the initial lockdown, there were fewer cases in the backlog from which the totality of the difference could be expected to be recovered. Members were also informed that 13 defendants were scheduled for trial between November 2021 and May 2022.
 3. A Member asked to what extent the Police had acted as a partner in the doorbell camera pilot scheme. Members were informed that the Police had not been a partner in the pilot scheme, however the service worked closely with them regardless and that many of those targeted by doorstep scammers during the scheme were talking to the Police alongside Trading Standards as part of the ongoing investigations. Members' attention was drawn to the example given in the report where footage obtained by one of the doorbell cameras was being used by the Police as part of their investigation into the suspect.
 4. A Member informed Officers that he found it encouraging to see businesses actively seeking out Primary Authority partnerships with the Trading Standards service and wanted to thank the officers for their work with partnership businesses. Officers were proud of the work undertaken to ensure that businesses were actively supported by the service to maintain good business practices and high standards whilst continuing to grow and succeed.
 5. There was recognition of the work undertaken by Linda Crowley in partnership with the Sunnybank Trust, which had been acknowledged by their Unsung Hero Award.
 6. A Member questioned the place of Traders4U in the wider market alongside the many similar, commercially available alternatives and

questioned if this congestion could explain the lower uptake in users than had been hoped when the service first launched. Members were informed that the service had initially been brought in to replace a partnership with Checkatrade which ended following a change in ownership. Officers acknowledged that some other existing services had lower standards required of potential members which could confuse residents, and thus felt it appropriate to develop an independent Trading Standards approved service to combat this. The service was designed to be affordable to potential members whilst having a high threshold to prevent rogue traders using the platform to advertise. It was confirmed that a review of the service would take place later in the year and that an update on this could be brought before a future Board Meeting of the Joint Trading Standards Service. This was supported by Members.

7. A Member asked if the service had identified new emerging scams and trends. Members were informed that changes had been identified in certain areas, particularly relating to selling products marketed as being environmentally friendly to elderly and vulnerable people. Between 16,000 and 20,000 pieces of intelligence were locally reviewed and assessed each year by the Service to construct a strategic risk assessment identifying consumer harm issues and ways to best direct Trading Standards resources to combat these emerging trends. This sat alongside similar work carried out nationally to develop a national strategic assessment. Other emerging scams and malpractices identified included illegal puppy breeding, and Covid-related scams in the midst of the pandemic. Trading Standards' prevention team was also able to raise public awareness of scams to residents, including vulnerable individuals in areas where ongoing scams had been made known to Trading Standards.
8. Officers also gave a brief update on the budget. The following key points were noted:
 - There had been an overspend of £69,000 (2.6%) at year end 2020/21 due to reduced income as a result of the pandemic.
 - Claims for lost income were made against the local government income compensation scheme, however this had not offset 100% of lost income.
 - As well as some additional Covid-related spend, there were some small reductions in expenditure in 20/21 as a result of paused activity and operating online, including reduced legal fees and travel expenses.
 - The service expected around £176,000 in Covid-related lost income for 2021/22. £66,000 of this had been offset by a Q1 claim to the local government income compensation scheme, however this scheme had been discontinued beyond June 2021, leaving fiscal pressure on both Local Authorities.
 - The service would reduce spending where possible to mitigate the impact of the fiscal pressures of the ensuing year.
 - Surrey County Council's share of lost income would likely be covered by its Covid Reserve Fund. Buckinghamshire Council's Covid pressures were identified as 'risks' and it remained to be determined how it would approach the lost income.

Actions:

Update to be given to a future Board meeting following the review of the Traders4U service.

RESOLVED:

1. That the Service's performance be noted.
2. That the joint service budget for 2021/22 and the identified pressures be noted.

24/21 TRADING STANDARDS ENFORCEMENT POLICY [Item 9]

Witness:

Steve Ruddy, Head of Trading Standards

Key points from the discussion:

1. Officers introduced the report and the following key points were noted:
 - The enforcement policy had been updated to include the capacity of the service to issue fixed penalty notices to offenders. This update had been made in anticipation of future legislative change permitting local authorities to issue fixed penalty notices for moving traffic offences.
 - There had been changes to various titles and acronyms within the enforcement policy to ensure they remained up to date.

RESOLVED:

That the amended Enforcement Policy be endorsed.

25/21 TRADING STANDARDS SCHEME OF DELEGATIONS [Item 10]

Witness:

Steve Ruddy, Head of Trading Standards

Key points from the discussion:

Officers introduced the report and the following key points were noted:

- The Scheme of Delegations had been updated to remove references to 'Buckinghamshire County Council', which had since become part of the new 'Buckinghamshire Council'

RESOLVED:

That the Scheme of Delegation be approved.

26/21 DATE OF THE NEXT MEETING [Item 11]

The date of the next meeting was Thursday 24 March 2022 and would be hosted by Surrey County Council.

Chairman

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Buckinghamshire CC and Surrey CC
Trading Standards Joint Committee

22 September 2021

Action Tracker & Forward Plan

Purpose of the report:

For Members to consider and comment on the Committee's Actions and Recommendations Tracker and to note the forward plan.

Introduction:

The tracker recording actions and recommendations from previous meetings is attached as Annex A, and the Committee is asked to note that all previous actions are now closed. The forward plan is attached as Annex B.

Recommendations:

The Committee is asked to monitor responses, actions and outcomes against actions and recommendations from previous meetings and to note the forward plan.

Report contact: Angela Guest, Committee Manager

Contact details: 07929 724773, angela.guest@surreycc.gov.uk

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Buckinghamshire CC and Surrey CC Joint Trading Standards Committee Actions and Recommendations Tracker

The recommendations tracker allows Joint Committee Members to monitor responses, actions and outcomes against their recommendations or requests for further actions. The tracker is updated following each Joint Committee meeting. Once an action has been completed and reported to the Joint Committee, it will be removed from the tracker.

Actions

Reference	Date of Meeting	Recommendations/Actions	Responsible Officer/ Member	Response	Status
2/21	22/09/21	<u>Item - Workplan:</u> Item to be included at the next meeting reviewing upcoming legislation that would impact the responsibilities of the service.	Steve Ruddy	Current and Emerging Issues Paper at 4/4/22 Joint Committee meeting to include this.	To be closed 4/4/22
3/21	22/09/21	<u>Item - Performance & Joint Service Budget:-</u> Update to be given to a future Board meeting following the review of the Traders4U service.	Steve Ruddy / Michele Manson	Update and discussion occurred at Board meeting 22/12/21	Closed

Completed actions (to be deleted)

1/21	23/9/2020	Performance and Joint Service Budget Further information be provided at a future meeting on data sharing with partners and to identify if there were any gaps in the data.	Steve Ruddy	A verbal update will be given during the meeting	completed
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This forward plan is subject to ongoing review and may be amended depending on external events and Government policy

Annex A

Forward Work Programme

March 2022 – Formal public meeting

Item title:	Budget and Performance
The Committee will be asked to:	Note the Service's performance and current financial position.
Item title:	Trading Standards Tobacco Work
The Committee will be asked to:	Consider the report as a reflection of activity over the financial year 2019-20 and consider enforcement activities which may be undertaken in 2020-21

September 2022 – Formal public meeting

Item title:	Budget and Performance
The Committee will be asked to:	Note the Service's performance and current financial position.

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BUCKINGHAMSHIRE COUNCIL AND SURREY COUNTY COUNCIL
TRADING STANDARDS JOINT COMMITTEE

DATE: 4 APRIL 2022

LEAD OFFICER: AMANDA POOLE
ASSISTANT HEAD OF TRADING STANDARDS

SUBJECT: PERFORMANCE AND JOINT SERVICE BUDGET

1.0 SUMMARY OF ISSUE:

- 1.1 The Buckinghamshire County Council and Surrey County Council Trading Standards Service Joint Committee is asked to note the performance of the service for quarters one - three of 2021-22 (April to December) (Annex B).
- 1.2 The information provided shows that the Service is performing well across the range of indicators and is delivering some excellent activity against key performance indicators.
- 1.3 The Joint Committee is asked to agree the position in relation to the joint service budget for 2022/23 (Budget Summary position, Annex A) and note the latest forecast for the outturn for 2021/22.
- 1.4 The information provided shows that:
- a) The Joint Service budget is forecast to be 5.8% overspent at the end of the 21-22 year (£155,000) due to ongoing pressure on income. The Government's lost income grant scheme supported this in Q1 but the scheme stopped at the end of June leaving a pressure.
 - b) There are pressures identified on the budget for 22/23 which will require each Council to confirm their approach to managing these risks to inform how the Service manages the budget.

2.0 RECOMMENDATIONS:

- 2.1 It is recommended that the Trading Standards Joint Committee:
- 2.1.1 notes the Service's performance.
 - 2.1.2 notes the joint service budget for 2022/23 and the pressures

3.0 REASON FOR RECOMMENDATIONS:

- 3.1 The Joint Committee is required by the Inter Authority Agreement which underpins the service to:
- a) Ensure effective performance of the Service. This includes formally reviewing performance annually by considering performance against the agreed measures.
 - b) Maintain financial oversight of the Service and ensure sound financial management.

4.0 PERFORMANCE DETAILS:

- 4.1 The performance of the joint service is measured through key performance indicators agreed by the Joint Committee.
- 4.2 There are no statutory performance indicators for Trading Standards and there is no performance benchmarking data available for comparison. Following the National Audit Office report on “Protecting consumers from scams, unfair trading and unsafe goods” published in December 2016 the Association of Chief Trading Standards Officers (ACTSO) developed a new national Impacts and Outcomes Framework for Trading Standards. This has been reported on since the 2018-19 year and provides overall information about the impact of Trading Standards using nationally aggregated data but does not provide benchmarking data.
- 4.3 Whilst there has been some disruption during the year as a consequence of the pandemic, and this remains visible in performance, it is not as marked as in previous reports during the past 18 months. The service has continued to be agile and adaptable in meeting the changes in demand through different phases of the pandemic.
- 4.4 The Joint Committee are invited to note the volatility of some of the performance indicators. Individual case outcomes, which often have been preceded by months or years of work, significantly affect the overall performance. Wide scale closure of courts and jury trials during the Coronavirus pandemic, and the knock-on delays in trials since has emphasized this volatility, with the Service having far fewer convictions during 20/21 than in previous years. This year we have now seen as many convictions as last year (5) though only in cases with short trials or where defendants have chosen to plead guilty, and trials have been avoided.
- 4.5 **A key Service priority is protecting the most vulnerable, tackling fraudulent illegal and unfair trading practices, including serious and organised crime.** Savings for residents, at £284,965, are behind last year’s savings (£466,586). However, due to delays in the court system there has only been one Proceeds of Crime Act 2002 compensation order (which tend to be the largest contributor to these figures) so far this year. The compensation order made this year was for a total of £86,391 to be returned as compensation to two victims of home improvement fraud where the criminals had been sentenced to immediate custody back in 2020. In addition

to this £284,965 there have been further savings of £698,448 for scam victims during the year.

- 4.6 To the end of December £1,539,025 has been saved for residents and a further £839,514 saved in avoided health and social care costs as a direct result of our scams interventions. This compares to just over £1.7m saved for residents in the previous year.
- 4.7 **Our second key priority is to enable businesses to get the help and support they need to thrive and grow. Delivering public protection through supporting businesses to comply with their legal responsibilities and ensuring a level playing field.** The service continues to successfully grow Primary Authority Partnerships with 136 partnerships at the end of December and businesses regularly approaching the Service seeking a partnership. More recently we have been involved in transferring a number of suitable partners from Hampshire Trading Standards, who are no longer able to provide a comprehensive Primary Authority Service due to resourcing constraints which will further increase our work in this area.
- 4.8 Supporting businesses to operate effectively and appropriately remains a significant priority. This year particular focus has been on changing covid business restrictions; supply chain issues and coping with changes in legislation, especially in relation to food, given the introduction in October of “Natasha’s Law” and new out of home calorie labelling legislation for larger businesses coming into force in April.
- 4.9 The Service supports a number of trader approval schemes, including: Eat Out, Eat Well; TrustMark and Traders4U. However, the market is challenging, not assisted by the unusual trading conditions with a sharp increase in householders extending, adapting and modernising their homes whilst supply chain issues have seen challenges in vital components for the building trade such as windows.
- 4.10 **Improving wellbeing and public health; tackling the supply of unsafe, dangerous or age restricted products and working to maintain the integrity of the food chain, including food quality, nutrition, and animal health is the third key priority for the Service.** We have been pleased to be able to return to doing a greater amount of our ‘usual’ work in this area following the significant disruption last year.
- 4.11 Work tackling illegal supplies of tobacco is a significant part of this work stream and funding from HMRC to undertake several operational days using tobacco detection (sniffer) dogs to locate hidden illicit tobacco has been helpful. Following on from a disappointingly high number of seizures made we were also fortunate to receive further funding for this work in the Surrey area from Surrey County Council’s Contain Outbreak Management Fund. This has enabled us to do more test purchasing and operations with the detection dogs, and the follow up investigations after these operations.
- 4.12 Whilst not at the extreme levels during Q1 last year, demand has continued to be high to tackle the import of unsafe products through transit sites for Heathrow. Over 18,000 unsafe and non-compliant products destined for people’s homes were prevented from entering the country through our work, including carbon monoxide alarms that don’t alarm, dangerous toys, counterfeit cigarettes, electrical and DIY items.

5.0 BUDGET 21/22 AND 22/23 PLANS:

- 5.1 The costs of the Joint Service are divided between the partner Local Authorities in the proportion: 34% Buckinghamshire and 66% Surrey, which includes any under or over spends.
- 5.2 There are a number of factors which introduce volatility to the budget. The service has an income budget of £0.7m, equivalent to 20% of its gross budget. It is challenging to accurately predict income and it's timing especially where costs are recovered from prosecutions, or where market conditions are changing. Some cases go through the legal process in a matter of weeks and others (particularly at the moment) run into years. Conversely the timing and amount spent on prosecutions varies depending what approach is taken by the defence, what arguments are made and whether the defendant pleads guilty at an early opportunity. However, the Service manages its' budget closely to even out the most volatile factors where it is possible.

2021/22

- 5.5 The 2021/22 budget was £2,676,000. We are forecasting that at year end there will be an overspend of £155,000 (5.8%). This is due mainly to reduced income. Covid impacted the Service by causing income to drop. A claim was made for Q1 to the local government income compensation scheme as this was extended for one quarter from last year, which offsets £66,000 of the loss. However, the scheme has not been extended beyond June, leaving a pressure on each Council. The Covid related loss of income is now expected to be around £168,000 for the year. The Service has restricted its' spend where possible, but there has been limited staff turnover during the year, so it has not been possible to manage the overspend through holding vacancies.
- 5.6 Each Council is managing the overspend in accordance with their own approach.

2022/23 Budget Planning

- 5.7 The proposed budget for 2022/23 in Annex A has been kept at the same value of £2,676,000. This excludes any increase for expected pressures, estimated at £262,000 for: pay inflation, additional National Insurance costs and reduced income. These therefore remain risks to the Service delivering within this budget which will require careful management during the year.
- 5.8 Each Council will manage the risks in accordance with their own approach, and each Council will need to confirm their approach to managing these risks to inform how the Service manages the budget.

6.0 CONSULTATION:

- 6.1 No external consultation has taken place.

7.0 RISK MANAGEMENT AND IMPLICATIONS:

- 7.1 All significant risks affecting the service (which include items beyond budget and performance) are regularly considered by the management team (two monthly for red and amber risks, 6 monthly for green risks).
- 7.2 Where risks become higher, these are shared with the Trading Standards Board for awareness and discussion.

8.0 FINANCIAL & VALUE FOR MONEY IMPLICATIONS

- 8.1 The Service has delivered all elements of the business case. The forecast budget outturn position for 2021/22 is detailed within section 5 above.

9.0 LEGAL IMPLICATIONS

- 9.1 The 2015 Inter-Authority Agreement provides the legal framework within which the Service operates. As set out in paragraph 3.1 of the report, the Joint Committee is responsible for ensuring the effective management of the Service and maintaining financial oversight. The Service's performance is then subject to scrutiny in the participating authorities in the normal way.
- 9.2 The report makes a number of references to relevant legal processes and proceedings that the Service has been involved in over the last year. There are no other specific legal issues that need to be drawn to the attention of the Committee.

10.0 EQUALITIES & DIVERSITY

- 10.1 The performance being reported will not impact on residents or staff with different protected characteristics, as such an Equality Impact Assessment has not been included.

11.0 WHAT HAPPENS NEXT:

- 11.1 Performance continues to be reviewed by the Service Management team and by the Joint Service Board.

REPORT DETAILS

Contact Officer(s):

Mrs Amanda Poole, Assistant Head of Trading Standards 07984 458 679
Mr Steve Ruddy, Head of Trading Standards 01372 371730

Annexes:

Annex A: Trading Standards Budget forecast summary 2021/22
Annex B: Key Performance Indicators 2021/22, Quarters 1-3 (April – December)

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Annex A

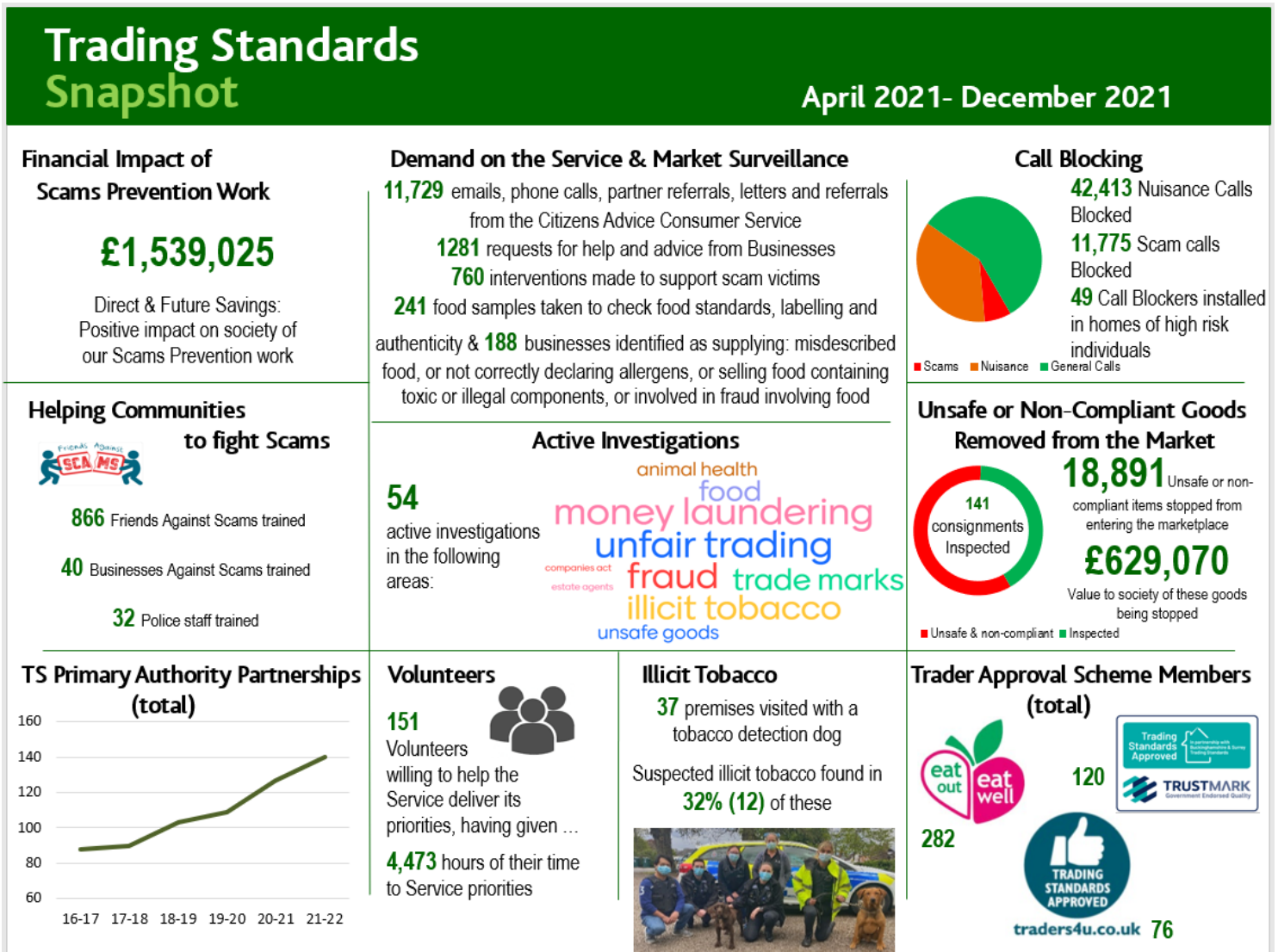
Trading Standards

	Agreed budget 2021/22 £000	Proposed budget 2022/23 £000
<u>Expenditure:</u>		
Staffing	3,053	3,053
Non Staffing	449	316
Total expenditure	3,502	3,369
<hr/>		
Income	-826	-693
<hr/>		
Net budget	2,676	2,676
Surrey County Council Contribution	1,766	1,766
Buckinghamshire County Council Contribution	910	910
Joint Budget	2,676	2,676
Identified Pressures (not in proposed budget)		
2022/23 Pay Inflation		75
National Insurance		26
Loss of Income		160
Total Pressures		262

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KEY PERFORMANCE INDICATORS

Summary - April to December 2021/22






April to December 2021

This year has seen a return to more 'business as usual' than the last year. Some work related to the Covid pandemic remained in the early part of the year, but not as significant as previously, and this is now completed. We continue to see a significant impact on the court aspect of the criminal justice system with many cases continuing to be substantially delayed. Three trials due to happen in November and December were all postponed due to a lack of available court/jury time. However, due to defendants pleading guilty avoiding the need for trials we have now seen as many convictions this year compared to last year.

The snapshot on the previous page shows performance against some of the key activities undertaken in the first 3 quarters of the year.

Service Priority Area 1 - Protecting the most vulnerable. Tackling fraudulent illegal and unfair trading practices, including serious and organised crime.

Key Performance Indicator	Comments	Status
<p>Increase the financial savings for residents as a result of our interventions and investigations</p>	<p>Savings for residents fluctuate year by year (and quarter by quarter) often due to factors beyond our control. £284,965 of savings occurred in Q1,2&3 compared to a total of £466,586 in the full 20-21 year. Due to delays in the court system there has only been one Proceeds of Crime Act compensation order (which tend to be the largest contributor to these figures) so far this year. This was for a total of £86,391 to be returned as compensation to two victims of home improvement fraud where the criminals had been sentenced to immediate custody back in 2020. Original coverage of this case can be found here: Cowboy builders jailed for seven years after causing major damage to elderly couple's home Daily Mail Online</p> <p>In addition to this £284,965 there have also been £698,448 savings for scam victims in Q's1-3.</p>	<p>Red</p> 
<p>Actions to stop rogue traders operating in Buckinghamshire and Surrey</p>	<p>The service continues to take actions to tackle and stop rogue trading, despite the ongoing impact of coronavirus on the Criminal Justice System with many trials delayed. Compared to 5 defendants convicted during 20/21, and 16 convicted in 19/20, this year so far has seen a total of 5 defendants convicted through cases led by us, and 2 more convicted where other agencies led the legal proceedings with the preceding investigations carried out in partnership with us. There have been three convictions (following defendants pleading guilty) for fraud and unfair trading offences (all still awaiting sentencing), and (in January) two convictions in relation to the supply of psychoactive substances and illicit tobacco, leading to a fine and 160 hours of community Service. In one of the cases investigated in partnership, the defendant kept over 200 animals, many of which were found to be unnecessarily suffering when a warrant was exercised on his farm. He was also found not to be disposing of animals correctly after they had died, which poses risks to his other animals and the food chain. He was sentenced to 19 weeks immediate custody and banned from keeping animals. Some examples of the press coverage include: Farmer jailed over cruelty that led to 'UK's biggest animal rescue mission' (telegraph.co.uk) https://www.rspca.org.uk/-/news-man-jailed-after-biggest-rescue-mission-23</p>	<p>Green</p> 

	<p>Man jailed after 170 animals found in 'poor conditions' - thatsfarming.com</p> <p>In the first part of the year the Service was actively involved in a pilot project across the South East and London to assess the impact of using video doorbells and other video door technology to support those at high risk of doorstep crime. Data from the pilot showed that installing this technology leads to a significant increase in wellbeing of the householder(s) and a significant reduction in financial loss at the doorstep, with very few being retargeted. These results led to a further funding application being agreed by National Trading Standards, and we are beginning to install more door cameras in the homes of the most vulnerable.</p> <p>In both areas we are now partners in Multi Agency Approach to Fraud, which is being operated in policing areas. In Buckinghamshire this means we are part of Thames Valley and in Surrey we are working closely with the Sussex area. As part of this we have been successful in obtaining funding from the National Trading Standards Scams Team to purchase more call blocking units. Each call blocker installed in the home of a person particularly vulnerable to phone fraud leads to over £16,000 savings and reduces the stress of unwanted calls. The feedback from residents with these units and their families is overwhelming positive about the impact they have on a person's life.</p> <p>The Service has carried out operations to disrupt the supply of illicit tobacco, by using tobacco detection dogs to locate hidden tobacco which is seized pending the full investigation (see area 3 for detail). This included executing a warrant on a flat that was suspected to be where illicit tobacco was being stored prior to its' sale from a nearby shop, where over £12,000 of tobacco was found during the warrant. The Service also found 36,000 illicit cigarettes hidden in a consignment being imported via Heathrow and have been working with Border Force and the Trading Standards Service for the address they were destined for to stop the goods entering the country and to investigate.</p> <p>In Q1 the Service continued to focus on second-hand car dealers that have been generating multiple complaints. This includes ensuring that the car dealers are clear on what the law requires and allows, which has resulted in resolving numerous ongoing disputes between the garages and consumers.</p> <p>The Service has numerous cases in the court system with 13 defendants currently scheduled for trial between April and October 2022, and a number of other matters currently earlier in the legal process.</p>	
<p>Impact of our interventions with scam victims, as measured by the NTS Scams Calculator</p>	<p>Scams are an ongoing concern. Many new ones appeared during the pandemic in relation to vaccines, testing and isolating. World and local events, such as storms causing damage to properties, see new iterations of recurring scams pop up. Therefore the Service has undertaken a range of work to prevent as many people as possible from becoming victims of scams.</p> <p>Up to the end of December £1,539,025 has been saved for residents and a further £839,514 in avoided health and social care costs as a direct result of our scams interventions. This compares to just over</p>	<p>Green</p> 

£1.7m saved for residents in the previous year. Although this appears to be ahead (as it includes a significant uptick during Q2 due to very high-quality referrals from the National Scams Team, enabling us to deal with residents as they were being defrauded) we have recently seen a dip in referrals from the NTS Scams Team (whilst they are dealing with a large intervention related to a scam being perpetrated from the US) which is likely to reduce the Q4 figures.

To the end of December interventions were made with 760 individuals vulnerable to scams.



Door Cameras

Doorstep crime (fraud) refers to rogue traders, bogus callers, and distraction burglary. These crimes can not only have a huge financial impact on their victims but can also lead to both psychological and physical damage. Home Office research shows that the majority of the victims of this type of offending are over 65 and are two and a half times more likely to be in care or die within two years as a result of victimisation compared to their nondefrauded neighbours.

Between April 2020 and April 2021, nationally, there were 3,509 doorstep fraud incidents reported into Action Fraud with losses of £17.2m. This does not take into consideration the incidents reported to the Citizens Advice Consumer Service. The National Trading Standards Scams Team says that scams are under reported with estimates of between only 5-10% reported. The actual figures are therefore likely to be a lot higher than the Action Fraud data conveys.

Effective interventions have been proven to work in relation to phone fraud with the installation of call blockers. Mail redirection services stop scam mail landing on vulnerable consumers door mats. With this in mind the Service took an active role in developing a pilot project in 2021 across London and the South East to assess the impact of installing door cameras in the homes of people particularly vulnerable to doorstep crime. Many of those taking part in the pilot had recently experienced doorstep crimes and their average loss was just over £18,300. The pilot included assessing the householder's wellbeing using a standard scale before the camera was installed and several months after.

Conclusions from the project

- Consumers who are targeted by doorstep crime are more at risk of suffering from lower wellbeing leading to depression.
- The use of camera technology can dramatically **increase consumer wellbeing** and allow people to live independently for longer. Wellbeing scores went up, and 60% of respondents reported feeling more confident in answering their door.
- The use of camera technology on the doorstep can reduce the chance of being defrauded at the doorstep. (The average financial loss went from £18,300 prior to installation down to £0 after installation)
- The cost: benefit ratio of the project was 39:1 i.e. every £1 spent saves £39.

As a consequence of the pilot, Trading Standards South East made a further bid for funding to National Trading Standards for more door cameras and these are beginning to be installed in vulnerable residents homes.

Call Blockers:



Call blockers are an extremely effective way of stopping criminals accessing vulnerable residents by telephone. To combat cold call fraud and to give residents piece of mind Buckinghamshire and Surrey Trading Standards provides and installs call blocking technology free of charge to those who are being plagued by nuisance and scam calls.

Research into the impact of call blockers show that they decrease the householder's financial losses to phone fraud and they increase the householders wellbeing against a standard scoring methodology. The increase in wellbeing is greatest in those who self-identify as vulnerable. The cost: benefit ratio of the call blockers is 32:1 i.e. every £1 spent saves £32.

If a resident feels either they or a relative may benefit from a call blocker they can email this request to us at trading.standards@surreycc.gov.uk. One of our Prevention Team officers will then contact the resident and discuss how the call blocker works and assess whether this would be an appropriate solution for the resident. A simple form will be completed and the fitting of the call blocker will be arranged. In urgent cases our officers are trained to install the units there and then.

Latest qualitative feedback on call blockers we have installed includes:

"The telephone is a necessity, a lifeline. I do become concerned by scammers and tradespeople who are insistent. I have been badly scammed by someone who seemed to know all about my bank, my account and who worked in the bank, even though he wasn't local! My husband & I are much happier now that we have the Truecall device.

We don't feel threatened now when we answer the phone."

"The Truecall device has made such a difference to my elderly mother (98) and my disabled sister (70) as they can now answer the phone with confidence. As their carer I have peace of mind knowing that nobody can get through who they don't know. They were victims of a scam and the phone is now one thing I do not have to worry about. Thank you."

"Since fitting the Truecall filter, unwanted phone calls have virtually ceased! - scams now mostly confined to internet. Since installation I have had NO calls from bogus HMRC, survey groups? Internet "problems" reports. Particularly - overseas computerised calls are now history!!!"

"My wife and I find it a comfort that the only people on the call phone system can get through."

"We have had 2 or 3 people trying to scam but we are aware now not to give anyone any numbers however convincing they sound and we know that banks never ask or if we want advice we would go to our banks. We are 84 and 82 years old. We have seen how people have been scammed out of a lot of money. It is a brilliant idea to have a Truecall service. Wonderful gadget."

"It made me realise how many phone calls a day I was having to deal with. Some of them were very threatening and didn't make any sense as I don't bank with Santander or HSBC and I don't have CCJ's so how can the Bailiffs be after me. The tactics are horrendous. Very reassuring."

Multi Agency Approach to Fraud – this is an initiative being coordinated by the National Trading Standards Scams Team to encourage partners within local police force areas to work together to tackle fraud and scams, including the Police, Trading Standards, Community Safety teams/ partnerships, victim support services and relevant charities. It encourages partners to work together to initially assess whether what they are currently doing is “good”, “better” or “best” in areas such as having a multi-agency approach, victim care, communications and awareness raising, using data and training. The aim is to then find ways to work together to improve in these areas. In both Counties we have strong relationships with partners in this field, however we can see that there are always improvements possible, and we are optimistic that this initiative will assist in delivering those improvements.

Volunteers



Buckinghamshire and Surrey Trading Standards are fortunate to have a number of volunteers who donate their valuable time to the priorities of the Service.

Volunteers undertake a diverse range of activities, from purchasing informal food samples; undertaking research projects; and being Scam Champions to raise awareness of scams and encourage their communities to take a stand against them.

Many volunteers bring their own personal knowledge and work experience to not only deliver relevant and engaging training but have also helped to develop both our Friends Against Scams (FAS) and Business Against Scams (BAS) training. The diverse activities our volunteers undertake combined with their passion have helped to tackle people's lack of knowledge of scams by providing information to enable communities and organisations to understand scams, talk about scams and convey messages throughout communities about scam prevention and protection.



Case Studies - As part of our prevention work, we may get involved in securing refunds for vulnerable victims. The following two case studies relate to engaging with banks:

Mr B received a phone call from unknown individuals purporting to be from the investigation branch of his bank, ringing about a push payment problem. By coincidence the wife of Mr B had been a victim of a previous push payment scam so he believed it was a legitimate call. The fraudsters rang Mr B numerous times and he was subsequently persuaded to make 3 bank transfers totalling almost £26,000. Upon realising what had happened Mr B immediately contacted his bank and submitted a report to Action Fraud.

Mr B subsequently received two letters from his genuine bank. The first letter acknowledged that he had been a victim of authorised push payment fraud but also implied that because it was his

own fault that he had been scammed, he would only receive a 50% refund. A later letter from his bank heralded the “good news” that Mr B would be credited with £5.

Three weeks later, following interventions by Trading Standards, Mr B received confirmation that his bank would be refunding the total amount he lost, £25,743.27.

Mrs K received a scam text purporting to be from one of her daughters. The text said that a new number was being used because she had a new phone, that the banks were stopping her account and she needed £1,470 urgently. She tried to ring her daughter but received no reply. The fraudsters had obtained the daughter's date of birth via social media and tricked Mrs K to provide her husband's number. He was then contacted and was instructed to transfer £1,470. The criminals tried to obtain more money which roused suspicion. An attempt to stop the transfer was unsuccessful as Mrs K in her panic couldn't answer the security questions, and Santander refused her request to stop the transfer. All this happened while Mrs K was struggling to look after her mother who was suffering with dementia.

Trading Standards intervened to provide overall advice and support and following engagement with their bank the decision to not refund any of the lost money was reviewed and they decided it would be appropriate to refund the full amount of £1,470.

Communication:

Trading Standards holds a variety of information and expertise which could help or reassure residents and businesses – for example knowledge of what goods are unsafe and are being recalled, knowledge of the latest scams circulating, or knowledge of where doorstep crimes are being committed. We share this information through a range of different channels to engage the residents for whom it would be most relevant. Having an ongoing programme of engagement with residents and businesses enables us to share more information with more people in support of our service priorities.

Anyone who would like to receive fortnightly trading standards information focused on residents /consumers directly into their in-box and share with others can subscribe to our electronic TS Alert newsletter using the link below:



<https://scc.newsweaver.co.uk/tradingstandards/ywh4mymr502>

Businesses can sign up to receiving Business Bites, our electronic newsletter focused on businesses here: [Business Bites](#)



The Service uses Facebook, both with an open page for general information: <https://www.facebook.com/BucksSurreyTS> and with private groups which help the Service and peers support those trained as Friends Against Scams and Scam Champions. These have high engagement and are a great way of maximising the impact of our Friends Against Scams within their communities.



We continue to run a Twitter account: https://twitter.com/Bucks_Surreys/ where we can put out information in a timely manner about the latest issues. Recently this has included information on how to donate to charities safely as we have seen scam 'charities' pop up to try to exploit people's desire to support those in Ukraine, and information on how to find reputable traders to fix problems created by storms at the end of February.

Trading Standards
25.4K Tweets
@Bucks_Surreys1S · 22h
Calling #businesses & #thirdsector organisations - join our webinar!

Covering:
•Government grant & tax rebate scams
•CEO fraud
•invoice/mandate fraud
•Tech support scams
•#cybercrime (by guest speaker from @TVPCyber_Fraud)
[...surreytradingstandards.eventbrite.com](https://www.surreytradingstandards.eventbrite.com)

#scamaware

Buckinghamshire & Surrey Trading Standards
Published by Hootsuite · 27 February at 10:00 · G
Please check on your neighbours who may be vulnerable after the recent windy weather.
If they need help in finding someone to repair any damage, ensure they don't entertain traders who have cold called.
Those that turn up on your front door and offer to start work straight away should be avoided!
Instead help them follow our advice to find a trusted professional. Be #ScamAware
<https://www.surreycc.gov.uk/.../choosing-a-reputable-trader>

Buckinghamshire & Surrey Trading Standards
Published by Hootsuite · 28 February at 18:00 · G
Scammers use a hook and prey on our vulnerability and generosity in times of crisis. They've recently used the pandemic and the increased energy costs to defraud people and we expect they are now using the invasion of Ukraine to make some money.
If you are looking to help people in Ukraine, please donate wisely - do your research first so you give without getting scammed.
Please protect yourself with the following information:
• Scammers will pretend to be legitimate well-known charities, creating their own charity names, and impersonating people impacted by the war in Ukraine.
• Scammers will be cold-calling, direct messaging and creating fake websites and pages on social media to raise funds. Avoid clicking on links or downloading attachments in unsolicited emails, texts or social media messages. They may attempt to lure you into unwittingly downloading malware onto your device or take you to a fake website to steal your money and personal information.
• Do not donate via fundraising pages on platforms that do not verify the legitimacy of the fundraiser or that do not guarantee your money will be returned if the page is determined to be fraudulent.
• Be careful about crowdfunding requests as these may be fake and also come from scammers. Check the terms and conditions of funding platforms and ensure you are dealing with official organisations. If you are unsure, make your donation to an established charity instead.
• If you think you have paid money to a scammer, please contact your bank immediately.
<https://www.actionfraud.police.uk/charities>
#givesafely #scamaware

Is your business #scamaware?
Join our free scams awareness webinar for businesses of any size, with guest speaker from Thames Valley Police to cover cyber crime & security.
8 March 2022

Beware of charity scams

Buckinghamshire and Surrey Trading Standards is also a member of the **Neighbourhood Alert system**, an online, secure community messaging system. It is used by various agencies such as Police, Fire, Neighbourhood Watch etc to communicate directly with individuals and groups in specific geographic areas. In turn these messages are disseminated by individual Neighbourhood Watch coordinators throughout their local communities. The Service uses this valuable tool to send alerts of doorstep crime incidents, scams, and other imminent threats.

Service Priority Area 2 - Enabling businesses to get the help and support they need to thrive and grow. Delivering public protection through supporting businesses to comply with their legal responsibilities and ensuring a level playing field.

Key Performance Indicator	Comments	Status
To increase the number of Primary Authority Partnerships	<p>The number of Partnerships we have has increased by 9 to 136 between April and December.</p> <p>Logos of all current partnerships are shown below. Examples of the most recent partnerships are:</p> <ul style="list-style-type: none"> • Stannah – a Hampshire based stair and home lift business • Kallo – a Surrey based food business • Radish – a Hertfordshire based catering business • MSL Solution Providers – a Lancashire based microbiological testing business • Kenwood – a Hampshire based kitchen appliance business 	<p>Green</p> 
Support to trader approval schemes	<p>This year the Service has continued to run “Eat Out, Eat Well” with the support of Health partners, and in Surrey Public Health committed additional funding during 21/22 for a part time officer to evaluate the scheme and help roll out the ‘Eat Well, Start Well’ part of the scheme.</p> <p>The service launched Traders4U.co.uk early in 2020 to support local residents and local businesses. Targeted Facebook advertising is being used to attract businesses. The take up of this scheme, in a currently challenging home improvement market, will be reviewed later in the year.</p> <p>We continue to work in partnership with TrustMark and to support their scheme with an option to upgrade to trading standards approved status.</p>	<p>Red</p> 

Research shows that a positive regulatory environment can contribute significantly to economic development and sustainable growth, improving the openness of markets and creating a less constricted business environment for innovation and entrepreneurship. It can protect compliant businesses by enabling fair competition and promoting a level playing field and provide business with the confidence to invest, grow and create new jobs.¹ Supporting businesses to understand what they need to do to be compliant is a vital part of a positive regulatory environment, ensuring that they can confidently focus their resources in the right areas.

Hampshire PAPs - Alongside our normal recruitment, losses and retention of partnerships, a restructure in Hampshire trading standards led to the regulator largely withdrawing from the field of Primary Authority due to lack of capacity. As a provider in our immediate locality with businesses who trade across county boundaries it was agreed that it would be beneficial to businesses, Hampshire TS and ourselves to work with them to implement a managed exit plan.

Their 46 partnerships were assessed and we took responsibility for working with 26 of them to explore their options. Anecdotally businesses have been relieved to be proactively contacted by Bucks and Surrey officers. Many of these businesses have decided to transfer and we are working through this process with them currently.

¹ [Regulation and Growth \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

One of the key roles of the Service is to help **prepare businesses for new legislation**. This year there are two key pieces of legislation coming in. The first (from April) requires larger food catering outlets (over 250 employees) to display calorie information about the food they sell to enable customers to make informed choices. We have been advising relevant partners on this for the past few months. Then in October the Food (Promotion and Placement) (England) Regulations 2021 will come into force, which aim to

- reduce the availability of products high in fat, salt and sugar (HFSS) bought through “volume promotions” like ‘buy one get one free’ offers, and
- to restrict the placement of HFSS product categories in high footfall areas of an affected store, like checkouts, end-of-aisle units, store entrances, and designated queuing areas.

We have been working closely with Primary Authority partners whom this legislation will affect, including the Association of Convenience Stores who have over 30,000 members across the Country. We have worked together to write some guidance for their members which can be found here: [acs assured advice - hfss 2022.pdf](https://www.acs.org.uk/assured-advice-hfss-2022.pdf)

This guidance document contains Assured Advice under the ACS Primary Authority Scheme. For more details visit www.acs.org.uk/assured-advice

ACS advice

HFSS PRODUCTS: PROMOTION AND LOCATION REGULATIONS

The intention of The Food (Promotion and Placement) (England) Regulations 2021 is to a) reduce the availability of products high in fat, salt and sugar (HFSS) bought through “volume promotions” like ‘buy one get one free’ offers, and b) to restrict the placement of HFSS product categories in high footfall areas of an affected store, like checkouts, end-of-aisle units, store entrances and designated queuing areas.

An ACS advice guide for retailers www.acs.org.uk

ACS the voice of local shops

ACS the voice of local shops

HFSS PRODUCTS: PROMOTION AND LOCATION REGULATIONS An ACS advice guide for retailers

Convenience retailers' obligations under these regulations depend on the number of employees in their business and the size of their selling space in store(s). ACS' Assured Advice guide will help convenience retailers to understand:

- Which convenience retailers are impacted by the regulations.
- What volume promotions you can and cannot run on HFSS products.
- Where in your store you can and cannot display HFSS products.
- What area of your website and online platforms are affected.
- How you can determine if a product is HFSS.
- How the regulations will be enforced.

What is a HFSS product?

The regulations apply to the categories of packaged goods set out in the list below. However, this does not mean every product within each category will be impacted.

Products must be assessed on an individual basis to determine their 'nutritional profiling score' (NPS). Retailers should work with suppliers to establish what products are HFSS. The majority of suppliers will be clearly communicating what products are HFSS.

Soft drinks with added sugar	Confectionery	Cakes	Ice cream	Crunch and savoury snacks
Morning goods (eg pastries)	Puddings and dairy desserts	Sweet biscuits	Breakfast cereals	Ready meals
Yoghurts	Milk drinks with added sugar	Juices with added sugar	Pizzas	Chips and similar potato products

1. IS MY BUSINESS IMPACTED BY THE REGULATIONS?

STEP 1/3: Restrictions on volume promotions

Convenience retailers with more than 50 employees must not offer volume promotions on HFSS products. The calculation of your employee numbers could be impacted by your participation in a 'franchise agreement', including membership of symbol groups.

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graph TD
    Q1{Do you have 50 or more employees?} -- YES --> A1[You cannot run volume promotions on HFSS products in store or online.]
    Q1 -- NO --> Q2{Do you operate any part of your business as a franchise or are you a member of a symbol group?}
    Q2 -- YES --> A2[Ask your symbol group or franchise head office whether their advice is that you are included in these regulations.]
    Q2 -- NO --> A3[You are exempt from all parts of these regulations.]
    
```

Franchise agreements and symbol groups

Convenience retailers that are deemed to have a 'franchise agreement' will have to calculate their employee numbers based on **all employees within the whole franchise business or symbol group they are part of**, not just the people directly employed in stores(s).

Convenience retailers will need to consult their symbol group supplier or franchise partner to discuss whether their agreement is considered to be a 'franchise agreement' as defined in the regulations. The regulations define a 'franchise agreement' based on the following criteria:

1. You agree with another party to the sale or distribution of food.
2. You agree with another party to the supply of particular food products specified in an agreement.
3. You agree with another party to comparable contractual arrangements as other businesses to:
 - a) products provided by the franchisee;
 - b) the internal or external appearance of the premises;
 - c) the business model used for the operation of the business.

Retailers should gain access to legal advice on the status of their contracts, either:

- a) advice provided by their symbol or franchise head office, or;
- b) advice the retailer has sourced themselves.

Source: The Food (Promotion and Placement) (England) Regulations 2021 Section 4: Qualifying Business

Current Primary Authority Partnerships:



New Partnerships since January 2022:



Advertising Standards Authority ‘backstop’ work




In January 2019, Buckinghamshire and Surrey Trading Standards were appointed by National Trading Standards (NTS), to perform the legal backstop function for the Advertising Standards Authority (ASA). It has been an opportunity for us to build an effective working relationship with the UK’s independent advertising regulator in relation to enforcement of misleading non-broadcast advertising.



Our role has involved a wide range of referrals from the ASA regarding anything from subscription traps, copycat websites, to misleading efficacy claims on health services/products. We work with a number of enforcement partners on such matters, including HMRC, MHRA, NTS (Scams, eCrime and Estate Agency & Lettings teams), Phone-Paid Services Authority and the Competition and Consumer Protection Commission to use a range of sanctions to gain compliance.

Following issues observed through our activity with the ASA we have been working with the Association of Chief Trading Standards Officers (ACTSO) who have recently written to the Ministers for BEIS and DHSC highlighting the limitations of the current legal framework to deal with complementary health products and therapies.

Service Priority Area 3 - Improving wellbeing and public health; tackling the supply of unsafe, dangerous or age restricted products and working to maintain the integrity of the food chain, including food quality, nutrition, and animal health.

Key Performance Indicator	Comments	Status
Number and estimated value of unsafe/non-compliant goods removed from or prevented from entering the supply chain.	<p>141 consignments of goods to be imported via Heathrow were examined to the end of December, leading to stopping over 18,000 unsafe or non-compliant goods entering the country. with an estimated impact to society of over £625,000. These products included electrical items, unsafe toys, DIY items, pillows and decorations among others.</p> <p>The number of consignments is higher than at this stage last year, but the number of stopped unsafe/non-compliant goods is lower than 20/21 when the Service stopped large consignments of unsafe/non-compliant PPE at the start of the Pandemic.</p>	<p>Static</p> 
Number of premises tested for selling illicit or age restricted products inappropriately, and approximate value of seized goods.	<p>Following 46 unannounced test purchasing visits, 37 premises have been visited with tobacco detection dogs, with nearly 70,000 cigarettes, over 5kg of hand rolling tobacco and various shisha packages suspected of being illicit and/or illicit alcohol found (and seized) at 12 (32%). A conservative estimated value of the seized goods based on HMRC data is over £17,000.</p> <p>In Surrey this has been assisted with funding from the Covid Outbreak Management Fund to investigate and carry out additional illicit tobacco operations during 21/22 due to the high levels of tobacco found early in the year and the link between illicit tobacco, poor lung health and covid outcomes.</p> <p>This year we are also regularly finding small quantities of illicit alcohol at shops when we visit for other purposes.</p>	<p>Green</p> 
Market surveillance projects carried out, including in relation to food	<p>To the end of December, 13 food market surveillance projects were carried out, identifying 188 businesses selling misdescribed food, or not correctly declaring allergens, or selling food containing toxic or illegal components, or involved in food fraud.</p> <p>In addition, we have been working on six non-food market surveillance projects related to: firework storage; illicit tobacco; unsafe goods; lettings agents; vapes; and looking at the safety of Halloween costumes.</p> <p>The safety of Halloween costumes was covered in the press – here is a link to our video and a couple of the articles: https://www.youtube.com/watch?v=OpLhVdw6lls https://www.dailymail.co.uk/news/article-10071963/Flammability-tests-kids-Halloween-costumes-going-flames-SECONDS-fire-experts-warn.html https://www.getsurrey.co.uk/news/surrey-news/kids-halloween-costume-enqufled-flames-21797227</p>	<p>Green</p> 

Fireworks - To ensure that fireworks are being stored safely and in accordance with the requirements of their licence, our team carried out 96 visits in October/ November in the run up to and around fireworks night. Some of these visits are carried out together with the local Fire Service. Eight visits identified issues that required rectification, including one where an excessive quantity was being stored in premises without fire detection and with a residential flat above. Because of the risk, where issues are found officers will usually require rapid rectification

to bring the premises back in line with the licence conditions to be safer. More serious non-compliances are considered for further enforcement action and will affect whether we will grant the premises a licence in the future.

Natasha's Law – In October new requirements for businesses to provide ingredients and allergen information with food that has been packaged on the premises it is sold from came into force. We have been providing support for food businesses through our business advice line, Primary Authority Partnerships and when visiting food businesses. In addition to providing advice through these routes, volunteers are helping us understand the wider level of compliance, allowing us to target further advice on the businesses that need most support to comply with the new requirements.

Avian Flu - Avian flu is an infectious type of influenza that spreads among birds. In rare cases it can infect humans if they are in very close contact with infected birds. There have been many reported cases in England this season with the Chief Vet describing cases at a “phenomenal level”. One of the controlled zones around an infected premises in Eton affected a small part of Buckinghamshire at the beginning of January and, liaising closely with the Animal Health and Plant Agency as well as the other Local Authorities affected, our officers were involved in giving advice to households within the zone who had captive birds.

Food Standards

An important role for the Service is ensuring that consumers have confidence in their food, so it is correctly described, not being sold fraudulently and is not dangerous. This includes ensuring accurate allergen information is provided and that naturally occurring toxins are not present in levels that pose a threat. Undeclared allergens can kill very quickly, however serious illnesses can result from excessive mycotoxins, aflatoxins etc. For example patulin, a naturally occurring food contaminant, is mutagenic, genotoxic, immunotoxic and neurotoxic. Patulin can be responsible for acute effects including nausea, vomiting and other gastrointestinal issues.

It can be impossible for consumers to know when there are problems with food so we carry out a range of market surveillance projects each year. Examples of the projects in this year have been to check what meat species is present compared to how the product is sold; checking the level of mycotoxins in beer; the levels of aflatoxins in nut butters; battered fish products to check the declared fish content is correct and levels of colours in cakes and biscuits marketed at young children.

We have also participated in the FSA imported food sampling programme taking samples of tinned peas, jam and snacks, cereals and bakery products originating in certain countries to check for levels of allergens and compliance with compositional standards

As with many areas of our work liaising with partners is important and we do this to support the maintenance of food standards.

On a routine basis we work with the Public Analysts, Food Standards Agency (FSA), Public Health, Trading Standards and Environmental Health colleagues across the region and nation to coordinate our work so that it is as effective as possible.

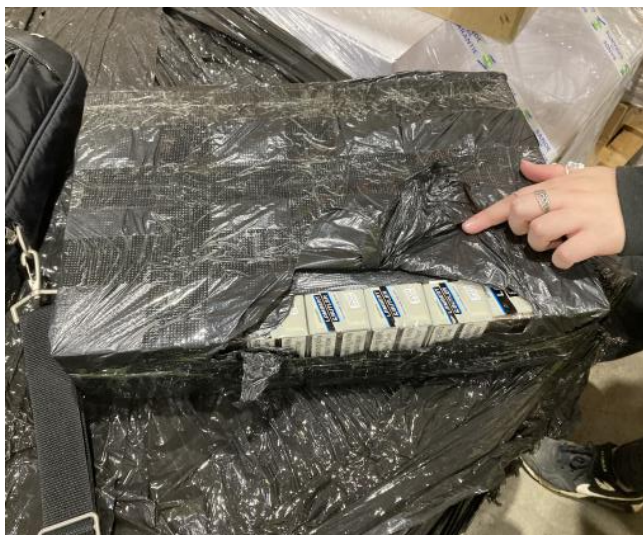
We have been working with the FSA on a national pilot to develop an enforcement system that is fit for purpose as the food marketplace evolves. This will end on 31 March 2022 but we will continue to use the pilot risk scheme as agreed with the FSA to target our interventions. The FSA will evaluate the data from the pilot scheme before making a final decision with the intention of any changes being made in 2023. However as we are of the opinion that the pilot scheme enables us to more effectively regulate and target interventions we will continue to use it and will liaise with the FSA to ensure they are aware of what we are doing.

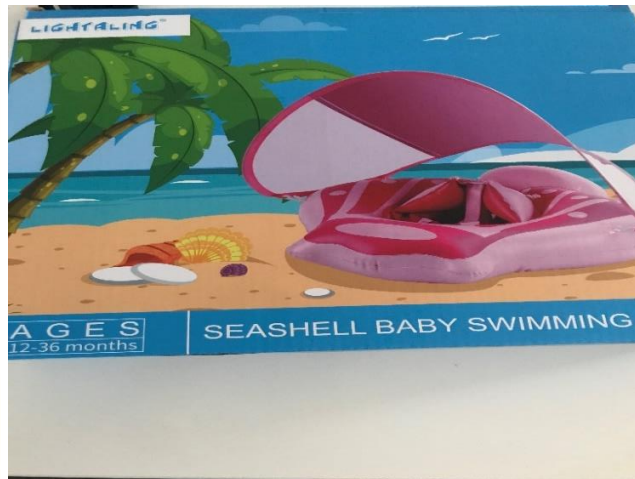
Part of the pilot scheme also involved us in taking samples as directed by the FSA intelligence unit. These were pork products and vegan products and imported food

Unsafe Goods & Safety of imported goods at Ports and Borders - Detaining unsafe and non-compliant goods at the point of entry saves considerable additional work once unsafe or non-compliant goods are spread across multiple wholesalers or retailers nationwide and is an efficient and effective way to protect consumers from dangerous products. The work helps protect consumers by preventing injuries, deaths and fires, and safeguards reputable business. In December we expanded this work (which is funded by the Office for Product Safety and Standards) to include some of the storage sheds situated in Slough.

Examples of unsafe/non-compliant products prevented from entering the country include:

- Carbon monoxide alarms that didn't 'alarm' when excessive levels of carbon monoxide were reached
- Power inverters with accessible live parts
- Fidget sensory toys packaged in bags that posed suffocation risks
- Counterfeit cigarettes, concealed under mobile phone cases that were declared on the consignment information (see the top two pictures below – the cigarettes are wrapped in black plastic)
- Unsafe cosmetic products which also made unsubstantiated claims about the effect it can have-the example below is a skin lightening cream that claims it "Fights against discoloration"
- Swimming floats aimed at parents to use with babies that were highly unstable posing a drowning risk(see picture below)





In addition to our work at Heathrow, we continue to carry out market surveillance to check on the safety of goods being sold in Bucks and Surrey using funding from the Office for Product Safety and Standards to test purchase and send to experts for testing a wide variety of products.

Outcomes of the testing have shown a number of safety issues across a range of products which we are following up on, including by requiring recalls of the most unsafe products.

**BUCKINGHAMSHIRE COUNCIL AND
SURREY COUNTY COUNCIL**

TRADING STANDARDS JOINT MANAGEMENT COMMITTEE

DATE: 4 APRIL 2022

LEAD OFFICER: STEVE RUDDY, HEAD OF TRADING STANDARDS

SUBJECT: TRADING STANDARDS ENFORCEMENT POLICY

SUMMARY OF ISSUE:

Enforcement is a vital part of Trading Standards role to protect residents and communities from harm and to ensure a fair and level playing field for legitimate and honest businesses.

The Trading Standards Service regularly reviews its Enforcement Policy to ensure it remains appropriate and relevant to the regulatory and local authority landscape. The proposed Enforcement Policy provides an updated framework, responding to the possibilities and requirements of new legislation, to ensure that the Trading Standards Service promotes efficient and effective approaches to regulation without imposing unnecessary regulatory burdens.

The Trading Standards Joint Committee is asked to review and agree an updated Enforcement Policy for use by the Buckinghamshire and Surrey Trading Standards Service.

The updates include amendments to:

- Ensure a growing range of financial penalties (as available in legislation) are acknowledged as potential outcomes, including fixed monetary penalties.
- Add, via a link, Financial Penalty Guidance for the Service as required under the Tenant Fees Act 2019.
- Add, via a link, Fixed Monetary Penalty Guidance for the Service as required in relation to various food legislation.

RECOMMENDATIONS:

It is recommended that:

1. The Trading Standards Joint Committee agrees the amended Enforcement Policy attached as Annex A

-
2. The Trading Standards Joint Committee agrees the Financial Penalty Guidance as required under the Tenant Fees Act - Annex B
 3. The Trading Standards Joint Committee agrees the Fixed Monetary Penalty Guidance for various food legislation - Annex C

REASON FOR RECOMMENDATIONS:

It is a statutory requirement for the Service to have, and actively use, an Enforcement policy. To ensure it remains relevant, this Policy must be periodically reviewed and agreed by Members through this Joint Committee.

DETAILS:

1. The Trading Standards Service aims to create an environment of confident consumers and trusted traders by providing advice and guidance to consumers and businesses. However, there will be occasions when a range of different actions may be necessary to deal with cases where trading standards laws have been breached by businesses or others.
2. This enforcement policy helps to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary regulatory burdens including consideration for social, environmental and economic outcomes. This policy allows appropriate use of the full range of penalties available across the legislation which Trading Standards enforce.
3. The Trading Standards Service recognises that the vast majority of businesses that operate within Buckinghamshire and Surrey are honest, legitimate enterprises. The Trading Standards Service will work with those businesses, helping and encouraging them to understand and comply with their regulatory obligations.
4. The main purpose of Trading Standards Service enforcement activity is to protect the public and legitimate businesses. To achieve this aim we will undertake to regulate businesses and others in a fair, practical and consistent manner helping to support or enable local and national economic growth for compliant businesses and other regulated entities.
5. The Trading Standards Service subscribes to the principles and objectives of the statutory Code of Practice for Regulators (the Code) made under the Legislative and Regulatory Reform Act 2006. We believe that all enforcement should be risk based and proportionate.
6. The Trading Standards Service aims to apply the law in a proportionate and transparent manner and in all our choices of enforcement actions we will comply with the principles of the Regulators Code.
7. The updated Policy includes reference to a range of different types of financial penalties, including 'Fixed Monetary Penalties' that are available in legislation that Trading Standards can enforce, coming into force from April 2022. Where required by the legislation the Enforcement Policy links to additional guidance on the use of these penalties.

CONSULTATION:

8. Comments on the Enforcement Policy are invited through the Enforcement Policy web page but none have been received.

RISK MANAGEMENT AND IMPLICATIONS:

9. If the Policy is not periodically reviewed it opens the Service up to challenge as to the basis of any prosecutions. This would introduce additional costs in arguing the challenge and may risk prosecutions failing prior to evidence being heard.
10. If the Service does not operate in accordance with statutory requirements, for example to have specific guidance for the use of specific penalties, then attempts to use such penalties could be challenged making the Service less effective.
11. Cases taken by the Trading Standards Service are increasingly complex, which naturally bring risks. The Service has processes in place to manage risks in enforcement, but it is not possible to eliminate them. Updates to the Enforcement Policy do not change the local decision-making process and therefore the controls remain the same and the risks are not increased.

Financial and Value for Money Implications

12. This paper covers minor updates to an existing policy. There are no new additional financial implications.

Legal Implications

13. If the Policy is not periodically reviewed it opens the Service up to challenge as to the basis of any prosecutions. This would introduce additional legal costs in arguing the point and may risk prosecutions failing prior to evidence being heard.

Equalities and Diversity

14. As the changes to the policy are minor, in our opinion they will not have an impact on residents or staff, particularly people sharing protected characteristics.

WHAT HAPPENS NEXT:

15. If agreed, the new Enforcement Policy will be published on our website and will be used by the Service immediately.

Contact Officer:

Steve Ruddy, Head of Trading Standards, 01372 371 730

Consulted:

Annexes:

Annex A: Updated Enforcement Policy

Annex B: Financial Penalty Guidance under the Tenant Fees Act 2019

Annex C: Fixed Monetary Penalty Guidance for various food legislation

Sources/background papers:

- None
-

Enforcement Policy

1.0 Introduction

1.1 Buckinghamshire Council and Surrey County Council operate a joint trading standards service (The Trading Standards Service). This policy sets out what businesses and others being regulated can expect from Buckinghamshire and Surrey Trading Standards enforcement officers

1.2 Surrey County Council is also the host for by the National Trading Standards Scams Team. This Team's investigations are subject to the same best practice principles found in legislation and codes that are outlined within this Enforcement Policy.

1.3 The Trading Standards Service aims to create an environment of confident consumers and trusted traders by providing advice and guidance to consumers and businesses. However, there will be occasions when a range of different actions may be necessary to deal with cases where trading standards laws have been breached by businesses or others.

1.4 This enforcement policy helps to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary regulatory burdens including consideration for social, environmental and economic outcomes.

1.5 The Trading Standards Service recognises that the vast majority of businesses that operate within Buckinghamshire and Surrey are honest, legitimate enterprises. The Trading Standards Service will work with those businesses, helping and encouraging them to understand and comply with their regulatory obligations.

1.6 The main purpose of the Trading Standards Service enforcement activities is to protect the public and legitimate businesses. To achieve this aim we will undertake to regulate businesses and others in a fair, practical and consistent manner helping to support or enable local and national economic growth for compliant businesses and other regulated entities.

1.7 The Trading Standards Service subscribes to the principles and objectives of the statutory Code of Practice for [Regulators \(the Code\)](#) made under the Legislative and Regulatory Reform Act 2006. We believe that all enforcement should be risk based and proportionate.

1.8 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 is properly reasoned, evidence based and documented.

1.9 Included in the term enforcement are the ways we deal with businesses and others in an advisory capacity in addition to licensing and formal enforcement action

1.10 The Trading Standards Service aims to apply the law in a proportionate and transparent manner and in all our choices of enforcement actions we will comply with the principles of the [Regulators Code](#).

2.0 Enforcement policy

2.1 The Trading Standards Service has adopted the principles of the National Intelligence Model and operates an intelligence led approach to enforcement activities.

2.2 Following the National Trading Standards (NTS) Intelligence Operating Model (IOM) Service demand is managed through a tactical tasking process designed to target resources effectively and focus activity on those businesses who cause the greatest harm to consumers and legitimate business. Regular tasking meetings ensure a timely response to emerging issues and efficient monitoring of actions taken to deal with rogue traders and businesses causing the most consumer and business detriment.

2.3 Where an issue is identified and investigated, consideration will be given to the most appropriate and proportionate intervention for dealing with the case.

2.4 A range of sanctions will be considered according to the associated risk and seriousness and of the matter.

2.5 Options include:

- Securing an undertaking from the business that they will comply with their legal obligations.
- Commencing action in the civil courts under the Enterprise Act 2002 to seek an enforcement order.
- Issuing cautions and warnings.
- Prosecuting offenders in the criminal courts.
- Restraint, Confiscation and Forfeiture of assets under the Proceeds of Crime Act 2002
- Seizing goods, documents or other items that may be required as evidence, for testing or for other lawful purposes
- Issuing Suspension Notices, Improvement Notices or other such statutory documents.
- Issuing of Penalty Charge Notices
- Instituting a license review (e.g. alcohol and cigarette sales).
- Instituting a product recall
- Issuing financial penalties

2.6 The aim of any intervention is to:

- change the behaviour of the offender;

- eliminate any financial gain or benefit from non-compliance;
- be responsive and consider what is appropriate for the particular offender and regulatory issues which can include punishment and the public stigma that could be associated with a criminal conviction;
- be proportionate to the nature of the offence and the harm caused;
- address the harm caused by regulatory non-compliance where appropriate; and
- to deter future non-compliance.

2.7 All enforcement activity undertaken under this policy will have regard to the Human Rights Act 1998 and the Equality Act 2010.

2.8 Consideration will be given to matters which aggravate or mitigate the seriousness of the case so that the most appropriate and proportionate method of disposal is chosen.

3.0 Aggravating factors

Examples of aggravating factors that the Trading Standards Service will take into account include, but are not limited to, the following:

- The impact, or potential impact, of the offence is so serious that prosecution is the only suitable method for disposal.
- Whether the offence continued over a long period of time or involved a series of offences against the same or different victims.
- Degree of pre-planning.
- Age and/or vulnerability of the victim(s).
- Amount of gain for the offender or the amount of loss to the victim relative to the victim's status.
- Impact of the crime on the victim.
- Prevalence of the offence and its impact on the community.
- Where there is any evidence of the crime being motivated by hate (hate crimes) ie racial hatred.
- Any attempt by the offender to conceal his identity, whether directly or indirectly, such that the victim and/or investigating agencies, cannot easily identify or trace the person.
- Lack of remorse.
- The offender's antecedents including previous advice, warnings, cautions and convictions.
- There is evidence of significant and/or continuing consumer or public detriment.
- There is significant risk to public health and safety or to the environment.
- The offender has acted fraudulently or is reckless or negligent in their activities.
- The offender deliberately obstructs an officer.

- The offender disregards the needs for animal health and welfare or disease control legislation.

4.0 Mitigating factors

Examples of mitigating factors the Trading Standards service will take into account include, but are not limited to, the following:

- Prompt acknowledgement of guilt.
- Making timely and appropriate compensation to the victim(s).
- Previous good character.
- Age of the defendant.
- Degree of culpability.
- Any other factor which, considered objectively in relation to the offence, tends to extenuate the gravity of the crime even though it does not provide a defence to it.

5.0 Forms of actions

Prosecution

5.1 The Trading Standards Service recognises that a prosecution has serious implications for all involved and have developed this policy so that we can make fair and consistent decisions in all cases. The decision on appropriate action will be taken by an officer delegated by the County Council to do so. The investigating officer will not be involved in the legal decision-making process.

5.2 We will have regard for this policy and the Code for Crown Prosecutors. Consideration will also be given to the Compliance Code made under the Legislative and Regulatory Reform Act 2006, in particular:

- whether there is sufficient evidence that a criminal offence has been committed; and
- whether there is a realistic prospect of conviction; and
- whether the prosecution is in the public interest.

5.3 In some cases, prosecutions may be taken concurrently with civil proceedings eg prosecution in the criminal court may be reinforced and supported by action in the civil courts under the provisions of the Enterprise Act 2002.

Simple caution

5.4 Where a prosecution could succeed and the offender admits their guilt, consideration will be given to dealing with the case by way of a caution when appropriate to do so.

Penalty notice for disorder

5.5 A penalty notice for Disorder (PND) is a statutory disposal introduced by the Criminal Justice and Police Act 2001. A PND is a type of fixed penalty notice for

specified low level offences e.g. sale of alcohol to a minor. There is no admission of guilt required to give a PND but there must be sufficient evidence to support a successful prosecution. Where the PND is paid in full that discharges any liability to be convicted of the penalty offence but the paying of the penalty is not an admission of guilt.

Issuing financial penalties and Fixed Penalty Notices

5.6 When legislation allows, we, as the enforcement authority, can issue financial penalties or fixed penalty notices to offenders. An example of where legislation provides that the Trading Standards Service can issue a financial penalty is under The Tenant Fees Act 2019. The Trading Standards Service can issue a financial penalty up to £5,000 for a single breach of the legislation and up to £30,000 for subsequent breaches within a five-year period. The following statutory guidance and separate enforcement policy will be followed when the Trading Standards Service is considering issuing a financial penalty in this way:

[Tenant Fees Act 2019: Statutory Guidance for enforcement authorities](#)

[\[LS1\] Mandatory Client money protection for property agents – enforcement guidance for local authorities](#)

[\[LS2\] Buckinghamshire and Surrey Trading Standards Enforcement Policy in relation to relevant Letting Agents Legislation \[LS3\]](#)

Examples of where legislation provides that the Trading Standards Service can issue a financial penalty in the form of a fixed monetary penalty is provided for under various food legislation (e.g. The Calorie Labelling (Out of Home Sector)(England) Regulations 2021). The Trading Standards Service can issue a fixed monetary penalty of £2,5000 for breaches of this legislation. The following Government guidance and separate enforcement policy will be followed when the Trading Standards Service is considering issuing a fixed monetary penalty in this way:

[Calorie labelling in the out of home sector: implementation guidance](#)

[\[LS4\] Buckinghamshire and Surrey Trading Standards Enforcement Policy in relation to relevant Food legislation. \[LS5\]](#)

Financial investigations under the Proceeds of Crime Act 2002

5.7 The Trading Standards Service will consider and, if appropriate, utilise powers under the Proceeds of Crime Act 2002 (POCA), to ensure the recovery of criminal benefit or financial gain following conviction. Where investigations identify money laundering offences, we will consider prosecuting for those offences.

5.8 The Trading Standards Service will consider using restraint powers under POCA to prevent the dissipation of assets from satisfying a confiscation order and to compensate victim(s).

Undertaking

5.9 The Trading Standards Service takes a staged approach to civil redress.

5.10 Where the matters complained of are not so serious as to justify immediate civil or criminal proceedings and the offender is willing to enter into an undertaking within the meaning of the Enterprise Act 2002 not to do or continue to do the matters complained of, a formal undertaking may be sought from the offender in these terms. A breach of the undertaking will normally result in proceedings being issued.

Injunctive relief

5.11 Where an individual or business operates in such a way that it harms consumers generally, application may be made to the civil courts for an injunction to stop the detrimental activities.

Written warnings

5.12 Where consideration of the case and this enforcement policy suggests that future compliance can be achieved without resorting to legal proceedings The Trading Standards Service will consider issuing a written warning or specific instructions as appropriate.

Suspending goods from sale

5.13 Where it is necessary to protect the public, unsafe goods will be suspended from sale using existing legislative powers.

Refusal, termination or variation of a licence/registration

5.14 The refusal, termination or variation of a licence or registration will be considered where the conditions attached to a licence or registration have not been met.

Dealing with age restricted sales

5.15 In the case of the illegal sale of alcohol and/or tobacco to a person aged under 18 years, consideration will be given to instituting a review of the premises licence.

5.16 In the case of persistent sales of alcohol and/or tobacco from a single premises (two sales within three months), consideration will be given to the issue of a closure notice.

5.17 In the case of persistent sales of alcohol and/or tobacco (two sales in two years), consideration will be given to either a restricted premises order and/or a restricted sale order.

5.18 In the case of the illegal sale of any age restricted products to persons under the legal age prescribed by the relevant legislation, the Trading Standards Service will take action in accordance with the options detailed above taking into account all necessary legislation.

6.0 National Enforcement

6.1 The Trading Standards Service act as the prosecuting authority for investigations carried out by the Advertising Standards Authority (ASA) via commissioning from the NTS, covering England and Wales.

6.1.1 The role of ASA is to ensure responsible advertising. Where ASA is faced with advertisers who persistently break the **Advertising Codes**, it will refer these cases to the Trading Standards Service.

6.1.2 The Trading Standards Service uses its own legal powers to assess, investigate and take action (where appropriate) on any matters ASA refers to it, subject to the same best practice principles found in legislation and codes that are outlined within this Policy.

6.1.3 The purpose of the Trading Standards Service in undertaking this work is to ensure that breaches of the law are addressed and that the integrity of the ASA system is supported by taking appropriate formal action against those who do not comply via the self-regulatory means.

6.1.4 Referrals from ASA are limited to areas of the law covered by the NTS grant as outlined in the grant agreement.

6.2 The Trading Standards Service may make agreements with other Primary Authority businesses to act as the host and prosecuting authority for offences which impact on the economic prosperity and consumer confidence in that businesses brand.

6.2.1 The geographical coverage for each agreement may include provisions for England, Scotland and/or Wales.

6.2.2 Investigations initiated by referrals under any such agreements are subject to the same best practice principles found in legislation and codes that are outlined within this Enforcement Policy.

7.0 National Trading Standards Scams Team

7.1 The National Trading Standards Scams Team covers the United Kingdom and is financed by Government grant via National Trading Standards.

7.2 The National Trading Standards Scams Team targets criminals involved with scams, mass marketing and consumer fraud and related crime. They investigate cases which have regional or national significance. In such cases the team will provide evidence to relevant local authorities, which may include Surrey County Council, or other enforcement bodies who will make a decision on how to proceed based on their own enforcement policies.

8.0 Partnership working

8.1 Wherever practicable we will endeavour to liaise with other relevant agencies that have a joint or complementary enforcement role to ensure a consistent and coordinated approach.

8.2 Before instigating formal action, the Trading Standards Service will liaise with all relevant agencies where a joint or complementary enforcement role is identified. We subscribe to the principles of the Department for Business, Energy and Industrial Strategy (BEIS) Primary Authority Principle

8.3 We will share intelligence with other enforcement agencies where this is practicable, beneficial and cost effective (in accordance with the requirements of the Data Protection Act 1998, and any other relevant legislation)

8.4 Data sharing will be conducted through appropriate information gateways.

9.0 Complaints procedure

9.1 The Trading Standards Service operates a two stage complaints procedure, administered by the Customer Relations Team for Surrey County Council.

9.2 Details of the [Surrey procedure](#)

10.0 Comments

If you have any comments concerning this policy, please write to the Head of Trading Standards at:

Buckinghamshire and Surrey Trading Standards
Woodhatch Place
11 Cockshot Hill
Reigate
Surrey
RH2 8EF

or email: trading.standards@surreycc.gov.uk.

BUCKINGHAMSHIRE AND SURREY COUNTY COUNCIL ENFORCEMENT POLICY IN RELATION TO RELEVANT LETTING AGENCY LEGISLATION

Tenant Fees Act 2019

Consumer Rights Act 2015

The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014, made under the Enterprise and Regulatory Reform Act 2013

The Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019, made under the Housing and Planning Act 2016

Buckinghamshire and Surrey County Council has adopted this policy on deciding financial penalties and the appropriateness of prosecution as an alternative to imposing financial penalties under the relevant letting agency legislation.

It applies in relation to any decision made by the Council in its capacity as Enforcement Authority and Lead Enforcement Authority under Sections 6, 7 & 26 of the Tenant Fees Act 2019 respectively.

February 2022



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Enforcement Generally

Introduction

Buckinghamshire and Surrey County Council has adopted this policy on deciding financial penalties and the appropriateness of prosecution as an alternative to imposing financial penalties under the relevant letting agency legislation. It applies in relation to any decision made by the Council in its capacity as Enforcement Authority and Lead Enforcement Authority under Sections 6, 7 & 26 of the Tenant Fees Act 2019 respectively.

For clarity, “relevant letting agency legislation” means: -

1. The Tenant Fees Act 2019, “the TFA 2019”
2. Chapter 3 of Part 3 of the Consumer Rights Act 2015 as it applies in relation to dwelling
3. houses in England
4. An order under Section 83(1) or 84(1) of the Enterprise and Regulatory Reform Act 2013¹; and
5. Regulations under Sections 133 – 135 of the Housing and Planning Act 2016².

1. Sanctions

The Tenant Fees Act 2019 provides that enforcement authorities may impose financial penalties of up to £30,000 depending on the breach as follows:

- a) In respect of a first breach of s1 & s2, or a breach of Schedule 2 of the TFA 2019, a financial penalty not exceeding £5,000.
- b) Under s12 of the TFA 2019 a second or subsequent breach of S.1 or S.2 within 5 years of the previous breach provides for a financial penalty not exceeding £30,000.00 and there is alternative power to prosecute in the Magistrates Court where an unlimited fine may be imposed.

In respect of a failure of Letting Agents to publicise their fees as required by s83(3) of the Consumer Rights Act 2015 a financial penalty not exceeding £5,000.

In respect of a failure by any person engaged in Letting Agency or Property Management work who fails to hold membership of a Redress Scheme as required by Article 3 Redress Schemes for Lettings Agency Work and Property Management Work (requirement to belong to a Scheme etc.) England) Order 2014 (in respect of Lettings Agency work) or Article 5 (in respect of property management work) to a financial penalty not exceeding £5,000. (Note that it is not sufficient to simply register for redress – the correct category of membership must be obtained depending on the work carried out.)

1. Pertaining to The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014

2. Pertaining to The Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.)

Regulations 2019

In respect of Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019:-

- a) a failure by a property agent who holds client money to belong to an approved or designated Client Money Protection (“CMP”) Scheme as required by Regulation 3, a financial penalty not exceeding £30,000 or
- b) a failure to display a certificate of membership; or publish a copy of that certificate on the relevant website (where one exists); or produce a copy of the certificate free of charge to any person reasonably requiring it as required; or notify any client in writing within 14 days of a change in the details of a underwriter to the CMP scheme or that the membership of the CMP scheme has been revoked, as required by Regulation 4, a financial penalty not exceeding £5,000.

The Council will determine what is the most appropriate and effective sanction and whether it is appropriate to impose a financial penalty or prosecute having due regard to the Buckinghamshire and Surrey Trading Standards Enforcement Policy.

Other Types of Enforcement Action that may be taken

In appropriate circumstances consideration will be given to less formal action such as warning letters or advice, in an effort to secure compliance, and will be done so in accordance with the relevant Enforcement Policy.

2. Statutory Guidance

The Ministry of Housing, Communities & Local Government (“MHCLG”) has published guidance for enforcement authorities in respect of the Tenant Fees Act 2019 - [“Tenant Fees Act 2019: Statutory Guidance for enforcement authorities”](#) and in respect of Client Money Protection Requirements – [“Mandatory Client money protection for property agents – enforcement guidance for local authorities”](#)

This is statutory guidance to which enforcement authorities must have regard to when considering to impose a financial penalty. This statutory guidance recommends certain factors that an enforcement authority should take into account when deciding on the level of financial penalty to impose and further recommends that enforcement authorities develop and document their own Policy on determining the appropriate level of financial penalty in a particular case.

3. Determining the level of the financial penalty

In accordance with the provisions of the TFA & CMP statutory guidance, the following factors should be considered by an enforcement authority when determining the level of penalty to impose for a breach of relevant letting agency legislation: -

- a) Severity of the breach
- b) Punishment of the landlord or agent
- c) Aggravating and mitigating factors
- d) Fairness and proportionality

Each of these factors are explained in more detail in the statutory guidance which you should refer to for each penalty you consider. For ease, the same considerations will be applied in cases of redress membership and breaches of S.83 Consumer Rights Act 2015.

Although the Council has therefore a wide discretion in determining the appropriate level of financial penalty in any particular case, regard has been given to the statutory guidance when making this policy.

Appendix 1 of this policy contains the processes that the Council will use in order to determine the level of financial penalty under the TFA 2019 and other relevant letting agency legislation. All stages subsequent to the issue of a Notice of Intent are subject to statutory time limits and the suspension of the process should an appeal be made to the First Tier Tribunal.

Appendix 1 – The Council’s process for determining the level of penalty to set

STEP ONE – Determining the category

The Council will determine the breach category using only the culpability and category of harm factors below. Where a breach does not fall squarely into a category, individual factors may require a degree of weighting to make an overall assessment. Other discretionary factors may also be applied in order to reflect consistency and may consider decisions in other UK jurisdictions where they contain some relevant and persuasive content.

Culpability

Very high: Where the Landlord or Agent intentionally breached, or flagrantly disregarded, the law or has/had a high public profile³ and knew their actions were unlawful

High: Actual foresight of, or wilful blindness to, risk of a breach but risk nevertheless taken

Medium: Breach committed through act or omission which a person exercising reasonable care would not commit

Low: Breach committed with little fault, for example, because:

- significant efforts were made to address the risk although they were inadequate on the relevant occasion
- there was no warning/circumstance indicating a risk
- failings were minor and occurred as an isolated incident

Harm

The following factors relate to both actual harm and risk of harm. Dealing with a risk of harm involves consideration of both the likelihood of harm occurring and the extent of it if it does.

Category 1 – High Likelihood of Harm

- Serious adverse effect(s) on individual(s) and/or having a widespread impact due to the nature and/or scale of the Landlord’s or Agent’s business
- High risk of an adverse effect on individual(s) – including where persons are vulnerable⁴

Category 2 – Medium Likelihood of Harm

- Adverse effect on individual(s) (not amounting to Category 1)
- Medium risk of an adverse effect on individual(s) or low risk of serious adverse effect.
- Tenants and/or legitimate landlords or agents substantially undermined by the conduct.
- The Council’s work as a regulator is inhibited
- Tenant or prospective tenant misled

Category 3 - Low Likelihood of Harm

- Low risk of an adverse effect on actual or prospective tenants.
- Public misled but little or no risk of actual adverse effect on individual(s)

3. Which may include any significant role in a trade or business representative organisation

4. A wide definition of vulnerability will be used. See Appendix 2 for a non-exhaustive list.

We will define harm widely and victims may suffer financial loss, damage to health or psychological distress (especially vulnerable cases). There are gradations of harm within all of these categories.

The nature of harm will depend on personal characteristics and circumstances of the victim and the assessment of harm will be an effective and important way of taking into consideration the impact of a particular breach on the victim.

In some cases no actual harm may have resulted and the enforcement authority will be concerned with assessing the severity of the misconduct; it will consider the likelihood of harm occurring and the gravity of the harm that could have resulted.

To the community

Some breaches cause harm to the community at large (instead of or as well as to an individual victim) and may include economic loss, harm to public health, or interference with the administration of justice.

STEP TWO - Starting point and category range

Having determined the category that the breach falls into, the Council will refer to the following starting points to reach an appropriate level of civil penalty within the category range. The Council will then consider further adjustment within the category range for aggravating and mitigating features.

Obtaining financial information

The statutory guidance advises that local authorities can use their powers to, as far as possible, make an assessment of a Landlord or Agent's assets and any income (not just rental or fee income) they receive when determining an appropriate penalty. The Council will use such lawful means as are at its disposal to identify where assets might be found.

In setting a financial penalty, the Council may conclude that the Landlord or Agent is able to pay any financial penalty imposed unless the Council has obtained, or the Landlord or Agent has supplied, any financial information to the contrary. The subject of a Final Notice, or a Notice of Intent where the subject does not challenge it, will be expected to disclose to the Council such data relevant to his/her financial position to facilitate an assessment of what that person can reasonably afford to pay. Where the Council is not satisfied that it has been given sufficient reliable information, the Council will be entitled to draw reasonable inferences as to the person's means from evidence it has received, or obtained through its own enquiries, and from all the circumstances of the case which may include the inference that the person can pay any financial penalty.

Starting points and ranges

The tables in Appendices 4-9 below give the starting points, minimum and maximum financial penalties for each harm category and level of culpability for each type of breach:-

- Appendix 4 First breach in respect of a Prohibited Payment
- Appendix 5 Second & subsequent breach in respect of a Prohibited Payment
- Appendix 6 Breach of Publication of Fees requirements
- Appendix 7 Breach in respect of membership of a Redress Scheme
- Appendix 8 Breach in respect of membership of a Client Money Protection Scheme
- Appendix 9 Breach of transparency requirements of membership of a Client Money Protection Scheme (Regulation 4).

Context

Below is a list of some, but not all factual elements that provide the context of the breach and factors relating to the Landlord or Agent. The Council will identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the starting point. In particular, relevant recent convictions⁵ are likely to result in a substantial upward adjustment. In some cases, having considered these factors, it may be appropriate to move outside the identified category range which will not exceed the statutory maximum permitted in any case.

Factors increasing seriousness

Aggravating factors:

- Previous breaches of the TFA 2019 or relevant letting agency legislation
- Previous convictions, having regard to:
 - the nature of the offence to which the conviction relates and its relevance to the current breach; and,
 - the time that has elapsed since the conviction.

Other aggravating factors may include:

- Motivated by financial gain
- Deliberate concealment of illegal nature of activity
- Established evidence of wider / community impact
- Obstruction of the investigation
- Record of poor compliance
- Refusal of advice or training or to become a member of an Accreditation scheme

Factors reducing seriousness or reflecting personal mitigation

- No previous or no relevant/recent breaches
- No previous convictions or no relevant/recent convictions
- Steps voluntarily taken to remedy problem
- High level of co-operation with the investigation, beyond that which will always be expected
- Good record of relationship with tenants
- Self-reporting, co-operation and acceptance of responsibility
- Good character and/or exemplary conduct
- Mental disorder or learning disability, where linked to the commission of the breach
- Serious medical conditions requiring urgent, intensive or long-term treatment and supported by medical evidence

5. See Appendix 3 for a list of relevant convictions

STEP THREE - General principles to consider in setting a penalty

The Council will finalise the appropriate level of penalty so that it reflects the seriousness of the offence and the Council must take into account the financial circumstances of the Landlord or Agent if representations are made by the Landlord or Agent following the issue of a Notice of Intent.

The level of financial penalty should reflect the extent to which the conduct fell below the required standard. The financial penalty should meet, in a fair and proportionate way, the objectives of punishment, deterrence and the removal of gain derived through the commission of the breach; it should not be cheaper to breach than to take the appropriate precautions and a fundamental principle involved is that there should be no financial gain to the perpetrator from the commission of the breaches.

If issuing a financial penalty for more than one breach, or where the offender has already been issued with a financial penalty, The Council will consider whether the total penalties are just and proportionate to the offending behaviour and will have regard to the factors in STEP EIGHT below.

STEP FOUR- Issue Notice of Intent

In respect of prohibited payments, publication of fees etc and client money protection membership and transparency requirements The Council will issue a Notice of Intent before the end of the period of 6 months beginning with the first day on which the authority has sufficient evidence of the breach. In respect of redress membership, the notice of intent must be served within 6 months of the date on which the enforcement authority is first satisfied of the failure to comply with Article 3 or Article 5. If the breach is ongoing the 6-month deadline continues until the breach ceases. A Notice of Intent can be served spontaneously.

While there are slight variations in the Statutory requirements according to which breach is being addressed a Notice of Intent will contain the amount of the proposed penalty, the reason for imposing the penalty and information about the right to make representations concerning the penalty. In respect of the TFA 2019, the date of service is also required on the Notice of Intent.

STEP FIVE – Consideration of representations and review of financial penalty where appropriate

The Council should review the penalty and, if necessary, adjust the initial amount reached at STEP FOUR, and represented in the Notice of Intent, to ensure that it fulfils the general principles set out below.

Any quantifiable economic benefit(s) derived from the breach, including through avoided costs or operating savings, should normally be added to the total financial penalty arrived at in step two, providing it doesn't increase the penalty over the prescribed maximum. Where this is not readily available, the Council may draw on information available from enforcing authorities and others about the general costs of operating within the law. Whether the penalty will have the effect of putting the offender out of business will be relevant but in some serious cases this might be an acceptable outcome.

STEP SIX – Reductions

The Council will consider any factors which indicate that a reduction in the penalty is appropriate and in so doing will have regard to the following factors relating to the wider impacts of the financial penalty on innocent third parties; such as (but not limited to):

- The impact of the financial penalty on the Landlord or Agent's ability to comply with the law or make restitution where appropriate
- The impact of the financial penalty on employment of staff, service users, customers and the local economy.

The following factors will be considered in setting the level of reduction. When deciding on any reduction in a financial penalty, consideration will be given to:

- The stage in the investigation or thereafter when the offender accepted liability
- The circumstances in which they admitted liability

- The degree of co-operation with the investigation

The maximum level of reduction in a penalty for an admission of liability will be one-third. In some circumstances there will be a reduced or no level of discount. This may occur for example where the evidence of the breach is overwhelming or there is a pattern of breaching conduct.

Any reduction should not result in a penalty which is less than the amount of gain from the commission of the breach itself.

STEP SEVEN - Additional actions

In all cases the Council must consider whether to take additional action. These may include further enforcement action itself or reference to other organisations where appropriate.

STEP EIGHT – Totality of breaching conduct

Where more than one financial penalty has been considered, the Council should consider the following guidance from the Sentencing Council's definitive guideline on 'Offences Taken into Consideration and Totality' which appears to the Council to be an appropriate reference and guide.

As the total financial penalty is inevitably cumulative the Council should determine the financial penalty for each individual breach based on the seriousness of the breach and taking into account the circumstances of the case including the financial circumstances of the Landlord or Agent so far as they are known, or appear, to the Council.

The Council should add up the financial penalties for each offence and consider if they are just and proportionate. If the aggregate total is not just and proportionate the Council should consider how to reach a just and proportionate total financial penalty. There are a number of ways in which this can be achieved.

For example:

Where a Landlord or Agent is to be penalised for two or more breaches or where there are multiple breaches of a repetitive kind, especially when committed against the same person, it will often be appropriate to impose for the most serious breach a financial penalty which reflects the totality of the conduct where this can be achieved within the maximum penalty for that breach. No separate penalty should be imposed for the other breaches. Where a Landlord or Agent is to be penalised for two or more breaches that arose out of different incidents, it will often be appropriate to impose separate financial penalties for each breach. The Council should add up the financial penalties for each breach and consider if they are just and proportionate. If the aggregate amount is not just and proportionate the Council should consider whether all of the financial penalties can be proportionately reduced. Separate financial penalties should then be imposed.

Where separate financial penalties are imposed, the Council must take care to ensure that there is no double-counting.

STEP NINE – Recording the decision

The officer making a decision about a financial penalty will record their decision giving reasons for coming to the amount of financial penalty that will be imposed.

Appendix 2 – Non exhaustive list of vulnerable people:

- Young adults and children
- Persons vulnerable by virtue of age
- Persons vulnerable by virtue of disability or sensory impairment
- People on a low income
- Persons with a drug or alcohol addiction
- Victims of domestic abuse
- Children in care or otherwise vulnerable by virtue of age
- People with complex health conditions
- People exploited where English is not their first language
- Victims of Trafficking or sexual exploitation
- Refugees
- Asylum seekers People at risk of harassment or eviction
- People at risk of homelessness.

Appendix 3 – Non exhaustive list of relevant offences / breaches

Housing law or landlord and tenant related

Offences under:

- The Public Health Acts of 1936 and 1961
- The Building Act 1984
- The Environmental Protection Act 1990
- The Town and Country Planning Act 1990
- The Prevention of Damage by Pests Act 1949
- The Protection from Eviction Act 1977
- The Local Government (Miscellaneous Provisions) Acts of 1982 and 1976
- The Housing Grants, Construction and Regeneration Act 1996
- The Local Government and Housing Act 1989
- The Housing Act 2004
- The Consumer Protection from Unfair Trading Regulations 2008

Offences involving fraud

Offences in which the victim has been deprived of money, property or other benefit by misrepresentation/deception on the part of the offender including: -

- Theft
- Burglary
- Fraud
- Benefit fraud (particularly where tenants are in receipt of Housing Benefit)
- Conspiracy to defraud
- Obtaining money or property by deception
- People trafficking
- Being struck off as a company director

Offences involving violence

A conviction for the offence of:

- Murder
- Manslaughter
- Arson
- Malicious wounding or grievous bodily harm
- Grievous bodily harm with intent
- Actual bodily harm
- Grievous bodily harm
- Robbery
- Criminal damage where the intent was to intimidate or was racially aggravated
- Common assault
- Common assault which is racially aggravated
- Assault occasioning actual bodily harm
- Possession of an offensive weapon
- Possession of a firearm

Offences involving drugs

- Consideration should be given to the nature of the offence and what bearing it could have on the Landlord or Agents business activities. The nature, quantity, purity and class of drugs should be taken into account. In addition, where an offence of possession with intent to supply is involved regard should be had to the role and importance of, the subject in the supply chain

Offences involving sexual offences

- An offence contained in schedule 3 of the Sexual Offences Act 2003.

Unlawful discrimination

- Unlawful discrimination can include findings of an Industrial Tribunal on unlawful employment practice such as discrimination under the Disability Discrimination Act. Consideration should be given to the nature of the unlawful discrimination and what bearing it could have on the management of a licensable property.

Other offences

- Modern Slavery / Human Trafficking Offences involving the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control of another person, for the purpose of exploitation.

Appendix 4 – Financial Penalty in the case of a first breach in respect of Prohibited Payments.

The table below gives the starting points, minimum and maximum financial penalties for each harm category and level of culpability. Where exceptional circumstances apply the Council may reduce the minimum penalties further but may not increase them above the maximum permitted of £5000.

		Range	
	Starting point (£)	Min (£)	Max (£)
Low culpability			
Harm category 3	1250	250	2250
Harm Category 2	1500	500	2500
Harm Category 1	1750	750	2750
Medium culpability			
Harm category 3	2000	1000	3000
Harm Category 2	2250	1250	3250
Harm Category 1	2500	1500	3500
High culpability			
Harm category 3	2750	1750	3750
Harm Category 2	3000	2000	4000
Harm Category 1	3250	2250	4250
Very high culpability			
Harm category 3	3500	2500	4500
Harm Category 2	3750	2750	4750
Harm Category 1	4000	3000	5000

Appendix 5 – Financial Penalty in the case of a second or subsequent breach in respect of Prohibited Payments within 5 years of a previous breach.

The table below gives the starting points, minimum and maximum financial penalties for each harm category and level of culpability. Where exceptional circumstances apply the Council may reduce the minimum penalties further but may not increase them above the maximum permitted of £30000.

		Range	
	Starting point (£)	Min (£)	Max (£)
Low culpability			
Harm category 3	3500	2000	8000
Harm Category 2	6500	4000	10000
Harm Category 1	8500	4500	15000
Medium culpability			
Harm category 3	6500	4750	17000
Harm Category 2	10500	5000	20000
Harm Category 1	12500	5500	22000
High culpability			
Harm category 3	10500	5500	20000
Harm Category 2	15000	6250	24000
Harm Category 1	18000	7000	26000
Very high culpability			
Harm category 3	15000	7000	24000
Harm Category 2	17500	7250	28000
Harm Category 1	20000	7500	30000

Appendix 6 – Financial Penalty in the case of a breach in respect of Publication of Fees.

The table below gives the starting points, minimum and maximum financial penalties for each harm category and level of culpability. Where exceptional circumstances apply the Council may reduce the minimum penalties further but may not increase them above the maximum permitted of £5000.

		Range	
Starting point (£)		Min (£)	Max (£)
Low culpability			
Harm category 3	1250	250	2250
Harm Category 2	1500	500	2500
Harm Category 1	1750	750	2750
Medium culpability			
Harm category 3	2000	1000	3000
Harm Category 2	2250	1250	3250
Harm Category 1	2500	1500	3500
High culpability			
Harm category 3	2750	1750	3750
Harm Category 2	3000	2000	4000
Harm Category 1	3250	2250	4250
Very high culpability			
Harm category 3	3500	2500	4500
Harm Category 2	3750	2750	4750
Harm Category 1	4000	3000	5000

Appendix 7 – Financial Penalty in the case of a breach in respect of Membership of a Redress Scheme.

The table below gives the starting points, minimum and maximum financial penalties for each harm category and level of culpability. Where exceptional circumstances apply the Council may reduce the minimum penalties further but may not increase them above the maximum permitted of £5000.

		Range	
	Starting point (£)	Min (£)	Max (£)
Low culpability			
Harm category 3	1250	250	2250
Harm Category 2	1500	500	2500
Harm Category 1	1750	750	2750
Medium culpability			
Harm category 3	2000	1000	3000
Harm Category 2	2250	1250	3250
Harm Category 1	2500	1500	3500
High culpability			
Harm category 3	2750	1750	3750
Harm Category 2	3000	2000	4000
Harm Category 1	3250	2250	4250
Very high culpability			
Harm category 3	3500	2500	4500
Harm Category 2	3750	2750	4750
Harm Category 1	4000	3000	5000

Appendix 8 – Financial Penalty in the case of a breach in respect of a failure to obtain membership of a Client Money Protection Scheme

The table below gives the starting points, minimum and maximum financial penalties for each harm category and level of culpability. Where exceptional circumstances apply the Council may reduce the minimum penalties further but may not increase them above the maximum permitted of £30000.

		Range	
	Starting point (£)	Min (£)	Max (£)
Low culpability			
Harm category 3	3500	2000	8000
Harm Category 2	6500	4000	10000
Harm Category 1	8500	4500	15000
Medium culpability			
Harm category 3	6500	4750	17000
Harm Category 2	10500	5000	20000
Harm Category 1	12500	5500	22000
High culpability			
Harm category 3	10500	5500	20000
Harm Category 2	15000	6250	24000
Harm Category 1	18000	7000	26000
Very high culpability			
Harm category 3	15000	7000	24000
Harm Category 2	17500	7250	28000
Harm Category 1	20000	7500	30000

Appendix 9 – Financial Penalty in respect of a breach of transparency requirements of membership of a Client Money Protection Scheme (Regulation 4)

The table below gives the starting points, minimum and maximum financial penalties for each harm category and level of culpability. Where exceptional circumstances apply the Council may reduce the minimum penalties further but may not increase them above the maximum permitted of £5000.

		Range	
	Starting point (£)	Min (£)	Max (£)
Low culpability			
Harm category 3	1250	250	2250
Harm Category 2	1500	500	2500
Harm Category 1	1750	750	2750
Medium culpability			
Harm category 3	2000	1000	3000
Harm Category 2	2250	1250	3250
Harm Category 1	2500	1500	3500
High culpability			
Harm category 3	2750	1750	3750
Harm Category 2	3000	2000	4000
Harm Category 1	3250	2250	4250
Very high culpability			
Harm category 3	3500	2500	4500
Harm Category 2	3750	2750	4750
Harm Category 1	4000	3000	5000

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BUCKINGHAMSHIRE AND SURREY COUNTY COUNCIL ENFORCEMENT POLICY IN RELATION TO RELEVANT FOOD LEGISLATION

Calorie Labelling (Out of Home Sector) (England) Regulations 2021

Food (Promotion and Placement) (England) Regulations 2021

Buckinghamshire and Surrey County Council has adopted this policy on deciding when to issue a fixed monetary penalty for failure to comply with an improvement notice as an alternative to prosecution under the relevant food legislation.

It applies in relation to any decision made by the Council in its capacity as Food Authority under s.5 Food Safety Act 1990.

February 2022



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Enforcement Generally

Introduction

Buckinghamshire and Surrey County Council has adopted this policy on deciding when to issue a fixed monetary penalty for failure to comply with an improvement notice as an alternative to prosecution under the relevant food legislation. It applies in relation to any decision made by the Council in its capacity as Food Authority under s.5 Food Safety Act 1990.

For clarity, “relevant food legislation” means: -

1. Calorie Labelling (Out of Home Sector) (England) Regulations 2021 (“The Calorie Regulations”).
2. Food (Promotion and Placement) (England) Regulations 2021 (“The Food Regulations”).

1. Sanctions

The relevant food legislation provides that food authorities may impose fixed financial penalties of £2,500 for failure to comply with an improvement notice as an alternative to criminal prosecution.

The Council will determine what is the most appropriate and effective sanction and whether it is appropriate to impose a financial penalty or prosecute having due regard to the Buckinghamshire and Surrey Trading Standards Enforcement Policy.

Other Types of Enforcement Action that may be taken

In appropriate circumstances consideration will be given to less formal action such as warning letters or advice, in an effort to secure compliance, and will be done so in accordance with the relevant Enforcement Policy.

2. Government Guidance

The Department of Health and Social Care has published guidance for enforcement authorities in respect of the Calorie Labelling (Out of Home Sector) (England) Regulations 2021–

[Calorie labelling in the out of home sector: implementation guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/calorie-labelling-in-the-out-of-home-sector-implementation-guidance)

This guidance document has been developed to help illustrate how the provisions of [The Calorie Labelling \(Out of Home Sector\) \(England\) Regulations 2021 \(the Regulations\)](https://www.gov.uk/guidance/calorie-labelling-in-the-out-of-home-sector-implementation-guidance) work and to provide assistance to those affected by the Regulations in understanding and applying them. The Regulations come into force from 6 April 2022.

These guidance notes have been produced to illustrate the legal requirements of the Regulations and are aimed primarily at those affected by the Regulations and the enforcement authorities enforcing them, as well as providing some examples of their practical application and recommendations businesses could implement. These guidance notes should be read in conjunction with the Regulations themselves. The text should not be taken as an authoritative statement or interpretation of the law, as only the courts have this power.



3. Circumstances in which a Fixed Monetary Penalty is likely to be imposed under the relevant Food Legislation

Below is a non-exhaustive list of some, but not all factual elements that the Council will take into consideration on when it is appropriate to impose a fixed monetary penalty. The Council will identify whether any combination of these, or other relevant factors, should result in a fixed monetary penalty being imposed. If there are relevant recent convictions then this will also be considered, alongside the Councils Enforcement Policy, as to whether prosecution would be appropriate.

- Previous breaches of relevant food legislation or the Food Safety Act 1990
- Previous convictions, having regard to:
 - the nature of the offence to which the conviction relates and its relevance to the current breach; and,
 - the time that has elapsed since the conviction.
- Motivated by financial gain
- Deliberate concealment of illegal nature of activity
- Established evidence of wider / community impact
- Obstruction of the investigation
- Record of poor compliance

4. Circumstances in which a Fixed Monetary Penalty is unlikely to be imposed under the relevant Food Legislation

- No previous or no relevant/recent breaches
- No previous convictions or no relevant/recent convictions
- Steps voluntarily taken to remedy problem
- High level of co-operation with the investigation, beyond that which will always be expected
- Good record of compliance
- Self-reporting, co-operation and acceptance of responsibility
- Good character and/or exemplary conduct
- Mental disorder or learning disability, where linked to the commission of the breach
- Serious medical conditions requiring urgent, intensive or long-term treatment and supported by medical evidence

5. Notice of Intent

Where an authorised officer proposes to impose a fixed monetary penalty under the relevant food legislation on a person, that officer must serve on that person a notice of what is proposed (“a notice of intent”). The notice must include the following:

- a. The grounds for the proposal to impose the fixed monetary penalty
- b. The amount of the penalty
- c. A statement that liability for the penalty can be discharged by paying 50% of the penalty within 28 days beginning with the day on which the notice was received; and
- d. Information as to
 - a. the effect of that discharge payment
 - b. the right to make representations and objections within 28 days beginning with the day on which the notice of intent was received; and
 - c. the circumstances in which an authorised officer may not impose the fixed monetary penalty (including any defences relating to the offence in relation to which the notice is served)



6. Making Representations and Objections

A person on whom a notice of intent is served may, within 28 days beginning with the day on which the notice was received, make written representations and objections to the enforcement authority in relation to the proposed imposition of the fixed monetary penalty. The Council will review the penalty in light of any representations received.

7. Contents and Service of Final Notice

If the person who has received the notice of intent does not discharge liability within 28 days, the food authority may serve a final notice imposing a fixed monetary penalty. The food authority may not serve a final notice on a person where it is satisfied that the person would not, by reason of any defence, be liable to be convicted of the offence to which the notice relates. If a food authority serves a final notice, it may not serve any other notice under the relevant food legislation in relation to the offence.

The final notice must include the following information:

- a. The Amount of the fixed monetary penalty
- b. The grounds for imposing the penalty
- c. How payment can be made
- d. The period of 28 days within which payment must be made
- e. The early payment discounts and late payment penalties
- f. Rights of appeal
- g. The consequences of non-payment

If a person who was served with a notice of intent, then makes representations or objections concerning that notice within the 28 day time limit, that person may discharge the final notice by paying 50% of the penalty within 14 days beginning with the day on which the final notice was received.



8. Appeals

The person receiving the final notice may appeal against it on any of the following grounds:

- a. That the decision was based on an error of fact
- b. That the decision was wrong in law
- c. That the decision was unreasonable
- d. That the decision was wrong for any other reason

Appeals are made to the First-tier Tribunal and the final notice is effectively suspended pending the determination or withdrawal of the appeal. The Tribunal have the power to withdraw, confirm or vary the final notice.

9. Non-payment of fixed monetary penalty and recovery of payments

The penalty must be paid within 28 days of receipt of the final notice. If the penalty is not paid within 56 days then the amount payable will be increased by 50%. In the case of an appeal, the penalty (whether varied or confirmed by the First-tier Tribunal) is payable within 14 days of the determination of the appeal, and if it is not paid within 14 days, the amount of the penalty is increased by 50%. The Council can recover any penalty imposed as if it is payable under a Court Order.

10. Criminal Proceedings

If a notice of intent for a fixed monetary penalty is served on any person, then no criminal proceedings for the offence may be instituted against that person in respect of the act or omission to which the notice related before 28 days from the date on which the notice of intent is received and if that person discharges liability, that person may not at any time be convicted of the offence in relation to that offence to which the notice was served. The appropriate action in relation to non-payment of any fixed monetary penalty will not be to institute criminal proceedings, but instead, would be to recover the penalty as if it is payable under a court order.



BUCKINGHAMSHIRE COUNCIL AND SURREY COUNTY COUNCIL

TRADING STANDARDS JOINT COMMITTEE

DATE: 4 APRIL 2022

LEAD OFFICER: DAVID PICKERING

SUBJECT: TRADING STANDARDS TOBACCO WORK

SUMMARY OF ISSUE:

The Children and Young Person's (Protection from Tobacco) Act 1991 requires Local Authorities to consider, at least once in every period of twelve months, the extent to which it is appropriate to carry out enforcement action to ensure that the provisions of the Children and Young Persons Act 1933, are effected. This seeks to prohibit the sale of cigarettes and associated items, such as nicotine delivery systems, to persons under the age of 18. This duty relates to tobacco enforcement only.

The Service undertakes work in this area supporting the delivery of the Public Health improvement outcomes and responsibilities that relate to the use of tobacco in order to help people to live healthy lifestyles; make healthy choices and reduce health inequalities.

This report considers the Service's work in relation to tobacco and associated products and is not restricted to the potential sale to children and young people.

RECOMMENDATIONS:

It is recommended that:

The Joint Committee notes and considers the report as a reflection of activity over the financial year 2021 – 2022 and endorses continued enforcement activities which will be undertaken in 2022– 2023.

REASON FOR RECOMMENDATION:

The Children and Young Person's (Protection from Tobacco) Act 1991 requires Local Authorities to consider, at least once in every period of twelve months, the extent to which it is appropriate to carry out enforcement action to ensure that the provisions of the Children and Young Persons 1933 Act, are effected.

DETAILS:

1. To ensure coherence and to maximise the impact of our work, Trading Standards link closely to Public Health led strategies to reduce tobacco consumption. The Trading Standards role is mainly in relation to tackling supply. However

increasing levels of innovation in the alternatives to tobacco, such as e cigarettes, continue to provide constant challenges to us when assessing how the legislation applies to them. The Service has also facilitated links to be made between Surrey and Buckinghamshire Public Health teams to share information and good practice. We also link into the regional tobacco groups and the Chartered Trading Standards Institute (CTSI) led Department of Health and Social Care funded national initiatives

2. In Surrey, Trading Standards chair the Tobacco Alliance. This group of partners oversee the delivery of the Public Health Tobacco Control Strategy for Surrey and reports back to the Health & Wellbeing Board. With the ambition for Surrey to have the lowest smoking prevalence in England, the Priorities include, among others; “helping young people to be tobacco free”; “tackling illicit tobacco” and “raising the profile of tobacco control”.

In partnership with our Public Health colleagues the remit of the group has been extended recently to include alcohol issues as there are common areas of concern.

The Surrey strategy for 2022-2026 is being developed and will reflect the priorities in the new national strategy (when released later this year) as well as local ones.

The Buckinghamshire Tobacco Control Strategy “Towards a smoke free generation” was launched in June 2019 and we are supporting this by tackling the supply of illicit tobacco and supporting the Alliance group:

[Buckinghamshire-Tobacco-Control-Strategy-2019-2024.pdf \(healthandwellbeingbucks.org\)](#)

The four main themes of the Buckinghamshire Strategy are Prevention First, Supporting smokers to quit, Eliminating variations in smoking rates and effective enforcement, with an overall focus on key groups.

Progress on the plan was reported to the Buckinghamshire Health and Wellbeing Board in July 2021

[Tobacco Control Strategy Update Action Plan.pdf \(moderngov.co.uk\)](#)

3. Tobacco use among young people is considered as risk-taking behaviour (by themselves as much as anyone else) and may be seen therefore as gateway-behaviour for other risk taking activities. These would include experimenting with alcohol and other illicit substances when this is combined with carrying offensive weapons and misuse of fireworks the resulting anti-social behaviour adversely affects how safe people feel in their own communities.
4. Sales of illicit tobacco facilitate a cheap way to start or continue smoking and as such needs to be minimised to reduce this impact. In addition, legitimate businesses are disadvantaged threatening small businesses in the local economy.

<https://www.illicit-tobacco.co.uk/problem/illicit-tobacco/>

5. There is evidence that the supply of illicit can be linked to organised crime and we work in partnership with the police to ensure appropriate dissemination of intelligence

https://www.eesc.europa.eu/sites/default/files/files/mr_arndt_sinn_speech.pdf

6. The programme for the financial year 2021/2022 was as follows:-

6.1. Contribute to the Surrey and Buckinghamshire Tobacco Control Strategies by taking action to reduce the supply of illicit tobacco through intelligence and enforcement.

We gathered local intelligence and used appropriate enforcement action against suppliers.

Intelligence was shared across relevant enforcement agencies to tackle organised distribution networks,

The illicit tobacco campaign continued. We used test purchasers to gather intelligence and information. 46 unannounced test purchase visits were carried out and the intelligence obtained from these was used to target premises using sniffer dogs.



We carried out 37 visits resulting in 3480 packets of 20 cigarettes, 5970g of hand rolling tobacco seized and 41 packages of shisha of various sizes being seized. Using tobacco detection dogs for these operations is vital because the illicit tobacco is usually hidden from view. Hiding places vary, but this year we have found tobacco being kept in boxes for legitimate products, such as this chocolate box below, through to being behind false panels in cupboards.



One prosecution has been successfully taken this year. 7 other businesses found selling illicit tobacco are currently under investigation.

Our work at the Heathrow import sheds resulted in a haul of over 36,000 illicit cigarettes being prevented from importation into the country. Liaison with the authority where the consignment was heading caused significant disruption to that particular supply chain

We continued to gather local intelligence and enforce regulations on vaping devices and associated liquids, raising the profile of the issue through local publicity. We carried out 4 visits relating to such devices resulting in 45 illegal vaping liquid refills being seized. These were either an incorrect size or composition. We have intelligence that such refills are being imported from the USA following the ban there on certain vaping liquids. The situation is being kept under review to assess if this is a longer term issue

We participated in a joint operation with the HMRC to identify and take appropriate action against sellers of illicit tobacco. Some of this work was funded by HMRC.

Ongoing lockdown restrictions hampered work to identify if there are issues with providers of shisha tobacco in both authorities but we intend to pursue this work in 2022

6.2. Promote the education message about the harm illicit tobacco causes and the smoking cessation message and gather any intelligence about sales of illicit tobacco to identify sources.

We worked with Public Health to achieve the best outcome we can from an educational perspective in particular identifying the best use of social media to target messaging.

We continued to liaise with both Councils communications teams to publicise our work about tobacco issues.

[Sunbury shopkeeper sold laughing gas to children during undercover sting - Surrey Live \(getsurrey.co.uk\)](https://www.getsurrey.co.uk)

To illustrate our work in partnership with Surrey police using sniffer dogs from Wagtail UK to deal with illicit tobacco we produced a video which was posted on YouTube and other social media.

[Trading Standards Illegal Tobacco Raid - YouTube](https://www.youtube.com/watch?v=...)

6.3. We continued to support the Tobacco Alliance groups in both counties

We continued to Chair the Surrey Alliance group and participated in meetings organised for both Councils. We participated in producing the new tobacco control strategy in Surrey. We continued to work with partners on the groups to deliver the agreed strategies to reduce smoking prevalence rates in both counties.

6.4. We continued to use local, regional and national intelligence to ensure we target our interventions and resources appropriately

We generated our own local intelligence using test purchasers. We monitored regional and national intelligence by actively participating in regional and national groups and used it when appropriate. By using intelligence we targeted our interventions on identified higher risk businesses. This was reflected in a significant success rate in finding illicit tobacco.

6.5. Seek licence reviews through the relevant District/Unitary Council when appropriate.

We sought one licence review this year and continue to liaise with licensing colleagues in both authorities to support a compliant marketplace.

6.6. We continued to monitor the market for alternatives to tobacco products, such as vaping products, to assess potential risks and look for solutions to ensure any risks to consumer safety is minimised

The supply of vaping products continues to be a dynamic and increasing market in terms of both quantity and variety of products.

We have seen a significant increase in the incidence of complaints and intelligence about under age sales of vaping products and will use this to target work on the issue in 2022. We are planning to carry out 5 under age sales operations in March 2022.

The continuing uncertainty and lack of confidence in some areas advising about smoking cessation has been mitigated to an extent by the message that residents who wish to stop smoking should be referred to the relevant smoking cessation service.

We continued to liaise with partner agencies, in particular about the use of CBD oil in vaping liquids and any regulatory issues this raised. CBD and presence of controlled drugs continues to raise issues.

7. For 2022-23 we will:

7.1. Contribute to the Surrey and Buckinghamshire Tobacco Control Strategies by taking action to reduce the supply of illicit tobacco through intelligence and enforcement.

We will gather local intelligence, use appropriate enforcement action against suppliers, share intelligence across relevant enforcement agencies to tackle organised distribution networks, repeat the illicit tobacco campaign, gather local intelligence and enforcing regulation on nicotine containing devices, raise the profile of the issue through local publicity and participate when relevant in nationally organised campaigns.

We will participate in joint operations with the HMRC to identify and take appropriate action against sellers of illicit tobacco

We will continue to carry out work to identify if there are issues with providers of shisha tobacco in both authorities.

7.2. Promote the education message about the harm illicit tobacco causes and the smoking cessation message and gather any intelligence about sales of illicit tobacco to identify sources.

We will work with Public Health to achieve the best outcome we can from an educational perspective in particular identifying the best use of social media to target messaging.

We will continue to liaise with both Councils communications teams to publicise our work about tobacco issues.

7.3. We will continue to support the Tobacco Alliance groups in both counties

We will continue to Chair the Surrey Alliance group and will participate in meetings organised for both Councils. We will work with partners on the groups to deliver the agreed strategies to reduce smoking prevalence rates in both counties.

7.4. Continue to use local, regional and national intelligence to ensure we target our interventions and resources appropriately

We will continue to explore ways to:

- improve intelligence sharing between relevant partners;
- upgrade intelligence from all viable sources; and
- explore alternative means of detecting sales (other than by test purchases)

7.5. Seek licence reviews through the relevant District/Unitary Council when appropriate.

Prosecutions for illicit tobacco can be used to add additional conditions onto the premises licence including the installation of CCTV at the premises, price labels on the alcohol to include the name of the shop, or the imposition of clear and stringent stock control measures.

7.6. Continue to monitor the market for alternatives to tobacco products, such as vaping products, to assess potential risks and look for solutions to ensure any risks to consumer safety is minimised

We will utilise intelligence and information to target businesses identified as supplying vaping products to under18 year olds and attempt test purchases from them.

2022 has seen a significant increase in complaints about alleged under age sales-there were 28 in 2021 but so far 20 have been received since the beginning of 2022.

We will continue to monitor the sale of vaping refills in particular to assess compliance

CONSULTATION:

8. Public Health teams in Surrey and Buckinghamshire have been consulted with and have contributed to this report.

RISK MANAGEMENT AND IMPLICATIONS:

9. We are supporting an important strand of tobacco reduction strategies by seeking to reduce the supply of tobacco products. If we are unable to carry out this work the effectiveness of this will be reduced and it is more likely that such products will be available to children and young people.

Financial and Value for Money Implications

10. The work in this area is carried out by a number of officers as a small part of their wider role. At times work in this area, such as advice to businesses, is combined with other visits that officers are carrying out to the same premises or area to maximise efficiency. This report is suggesting that the Service broadly maintains its approach to this work and therefore there is no additional financial implication beyond that which is already committed.

Legal Implications

11. As outlined in the report, there is a requirement for Local Authorities to consider carryout enforcement actions at least once in every twelve month period, to ensure that the provisions of the Children and Young Persons Act 1933, are effected. The report outlines the enforcement action taken and the legal consequence to such action.

Equalities and Diversity

12. Tobacco consumption is disproportionately prevalent in particular socio-economic groups; tackling tobacco consumption has a positive impact in helping tackle health inequalities. There is no likely negative disproportionate impact arising from the work described in this report on people with protected characteristics.

WHAT HAPPENS NEXT:

13. This is set out in section 8 above.
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Contact Officer:

David Pickering, Trading Standards Manager, Regulation 01372 388779

Consulted:

Annexes: None

**BUCKINGHAMSHIRE COUNCIL AND SURREY COUNTY
COUNCIL**

TRADING STANDARDS JOINT MANAGEMENT COMMITTEE

DATE: 4 APRIL 2022

LEAD OFFICER: STEVE RUDDY, HEAD OF TRADING STANDARDS

SUBJECT: TRADING STANDARDS CURRENT AND EMERGING ISSUES

SUMMARY OF ISSUE:

Looking ahead to what is coming enables the Service and Joint Committee to consider risks, implications and what approach it wishes to take to upcoming issues.

The attached paper looks at legislation that the Service will have responsibility to enforce when it comes into force during 2022 and considers two government policy papers regarding “Levelling Up” and “Brexit Benefits”.

RECOMMENDATIONS:

It is recommended that the Trading Standards Joint Committee notes the current and emerging issues attached as Annex A.

REASON FOR RECOMMENDATIONS:

It is important for the Service to look ahead to upcoming and emerging issues to enable it, and the Joint Committee, to consider at an early stage what the implications and risks may be. Where relevant these are discussed in the attached paper.

DETAILS:

1. The attached paper covers areas including: The Calorie Labelling (Out of Home Sector) (England) Regulations 2021; The Food (Promotion and Placement) (England) Regulations 2021; changes to the draft Online Safety Bill 2021; the Government policy paper “Brexit Benefits”; the Government White paper “Levelling Up”; the Public Accounts Committee report into protecting consumers from unsafe products; and a BEIS Parliamentary Committee Investigation into post-pandemic economic growth, state aid and post-Brexit competition policy.
2. The Calorie Labelling (Out of Home Sector) (England) Regulations aim to make it easier for people eating out to understand how much energy is in the food they are eating to enable customers to make informed choices. This legislation comes into force from 6th April 2022.

3. The Food (Promotion and Placement) (England) Regulations comes into force in October 2022 and aims to:
 - a. reduce the availability of products high in fat, salt and sugar (HFSS) bought through “volume promotions” like ‘buy one get one free’ offers, and
 - b. to restrict the placement of HFSS product categories in high footfall areas of an affected store, like checkouts, end-of-aisle units, store entrances, and designated queueing areas.
4. The Government’s “Brexit Benefits” Policy paper suggests a review on “the EU ban on imperial markings and sales” and enabling businesses to use a crown pint symbol on pint glasses. The attached paper highlights the need for Trading Standards, as the Weights and Measures Authority, to be consulted on the use of imperial measures so that we can feedback the costs for enforcement and practical issues that this will entail.
5. The governments White paper on “Levelling Up” is also considered in the attached paper which contains several areas that are directly relevant to Trading Standards but has no specific mentions or direct references.

CONSULTATION:

6. No consultation has occurred.

RISK MANAGEMENT AND IMPLICATIONS:

7. By looking ahead to upcoming and emerging issues the Service is considering at an early stage what the implications and risks may be. Where there are particular issues these are raised in the attached paper.

Financial and Value for Money Implications

8. This paper is for information only with no significant policy changes to be considered. There are no new additional financial implications.

Legal Implications

9. Some of the issues relate to new legislation as set out above, which the Service will have responsibility for enforcement.

Equalities and Diversity

10. This paper is for information only with no significant policy changes to be considered and, in our opinion the issues will not have an impact on residents or staff, particularly people with protected characteristics.

WHAT HAPPENS NEXT:

11. .
-

Contact Officer:

Steve Ruddy, Head of Trading Standards, 01372 371 730

Consulted:**Annexes:**

Annex A: Current and Emerging Issues

Sources/background papers:

- None
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Current & Emerging Issues

The Calorie Labelling (Out of Home Sector) (England) regulations 2021 - This legislation aims to make it easier for people eating out to understand how much energy is in the food they are eating. It will require larger food catering outlets (over 250 employees) to display calorie information about the food they sell to enable customers to make informed choices from 6th April 2022. We have been advising Primary Authority Partners whom it affects and are raising awareness of the new requirements through re-tweeting Food Standards Agency information. Businesses will continue to be supported with specific advice when requested, although because it only affects larger catering outlets we anticipate that the majority of advice will be via the Primary Authority route.

The Food (Promotion and Placement) (England) Regulations 2021 - The aim of these regulations is to:

- reduce the availability of products high in fat, salt and sugar (HFSS) bought through “volume promotions” like ‘buy one get one free’ offers, and
- to restrict the placement of HFSS product categories in high footfall areas of an affected store, like checkouts, end-of-aisle units, store entrances, and designated queueing areas.

We have been advising Primary Authority Partners whom it affects and are raising awareness of the new requirements through re-tweeting Food Standards Agency information. As part of this we have been working closely with the Association of Convenience Stores (ACS) who have over 30,000 members across the Country to write some guidance for their members to make the requirements clear and accessible. The first 3 pages are shown below, but the full guidance is now publicly available here: [acs assured advice - hfss 2022.pdf](https://www.acs.org.uk/assured-advice-hfss-2022.pdf)

The image shows three pages from the ACS 'assured advice' guide for retailers. The first page is the cover, titled 'ACS advice HFSS PRODUCTS: PROMOTION AND LOCATION REGULATIONS'. It includes the ACS logo and a brief introduction to the regulations. The second page is titled '1. IS MY BUSINESS IMPACTED BY THE REGULATIONS?' and contains a flowchart to help retailers determine if they are affected based on employee numbers and whether they are a franchisee or part of a symbol group. The third page is titled 'STEP 1/3: Restrictions on volume promotions' and discusses the requirements for retailers with more than 50 employees, including the calculation of employee numbers and the impact of franchise agreements.

As this legislation affects a wide range of businesses, as well as responding to requests for advice we will also be talking to businesses as we visit them for other reasons to raise awareness and ensure they are considering how they will comply when it is in force.

Major Changes to Online Safety Bill to tackle scams and fraud: After a major campaign on the issue of online harms the Department for Digital, Culture, Media and Sport have recently published proposals to extend the scope of the draft Online Safety Bill.

Under the new proposals social media sites and search engines will be forced to stamp out fraudsters and scammers on their platforms.

A new legal duty will be added to the Online Safety Bill requiring the largest and most popular social media platforms and search engines to prevent paid-for fraudulent adverts appearing on their services.

The change will improve protections for internet users from the potentially devastating impact of fake ads, including where criminals impersonate celebrities or companies to steal people's personal data, peddle dodgy financial investments or break into bank accounts.

Companies will need to put in place proportionate systems and processes to prevent (or minimise in the case of search engines) the publication and/or hosting of fraudulent advertising on their service and remove it when they are made aware of it.

It will mean companies have to clamp down on ads with unlicensed financial promotions, fraudsters impersonating legitimate businesses and ads for fake companies. It includes 'boosted' social media posts by users which they pay to have promoted more widely.

The regulator Ofcom will set out further details on what platforms will need to do to fulfil their new duty in codes of practice. This could include making firms scan for scam adverts before they are uploaded to their systems, measures such as checking the identity of those who wish to publish advertisements, and ensuring financial promotions are only made by firms authorised by the Financial Conduct Authority (FCA).

Ofcom will oversee whether companies have adequate measures in place to fulfil the duty, but will not assess individual pieces of content, in keeping with the approach taken in the rest of the bill. It will have the power to hold companies to account by blocking their services in the UK or issuing heavy fines of up to £18 million or ten per cent of annual turnover.

Brexit Benefits – In January the Government published a Policy paper entitled “The benefits of Brexit” stating that “this policy document sets out how the UK is capitalising on the benefits of Brexit and how the government will use its new freedoms to transform the UK into the best regulated economy in the world.” [The Benefits of Brexit: How the UK is taking advantage of leaving the EU \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/611112/brexit-benefits.pdf)

Under “achievements so far” it included the following that are of relevance to Trading Standards Services:

- *Reviewing the EU ban on imperial markings and sales. This will give businesses and consumers more choice over the measurements they use. Imperial units like pounds and ounces are widely valued in the UK and are a core part of many people’s British identity.*
- *Enabling businesses to use a crown stamp symbol on pint glasses. The Crown Stamp is a proud emblem of our heritage that people remain fond of. We have begun the process of allowing it to be used once again, a fitting tribute to Her Majesty’s Platinum Jubilee.*

In relation to the Crown Stamp on pint glasses, it should be noted that selling by pints has always been allowed, and similarly the use of the crown stamp was never banned. It could always have appeared alongside other European marks.

In February this policy paper was followed up with an announcement of a study of the economic impacts of reintroducing imperial markings.

As the Local Authority Service responsible for Weights and Measures, Trading Standards are keen to be consulted as part of this study so that the costs and practical implications including those relating to enforcement can be taken into account.

It should be noted that whilst it has continued to be possible for a consumer to request products by an imperial measure the legal selling unit is currently in metric and therefore there will be a cost to the Local Authority if this were to change. Costs would be incurred for purchasing and maintaining new imperial local and working standard weight measures. It is also worth noting the increased potential for consumer confusion and increased difficulties in price comparison should imperial units be used instead of metric units. Most residents will have never used imperial units other than in very limited circumstances (for beer sales or road distances for example) and have never been taught about them. There are also likely to be increased costs for businesses.

Levelling Up - Recently the Government published the “Levelling Up” white paper.

[Levelling Up the United Kingdom: Executive Summary \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

There are several areas that are directly relevant to Trading Standards but no specific mentions or direct references. The sections on net zero, local empowerment, community and finance; and improving safety and tackling crime all have some relationship to the work of Trading Standards including in supporting the growth agenda.

The ‘Net Zero’ Section talks about new infrastructure and technologies and their potential to benefit disproportionately less well performing parts of the UK. However there is nothing on the importance of clear standards, effective market regulation, consumer confidence, or the risks from rogue traders, scams or “green washing” deceiving consumers and undermining the shift to a more sustainable future.

There are sections on local empowerment, community, finance etc which would normally link to the wider local growth agenda in which Trading Standards does have an important role in ensuring a well functioning economy, ensuring consumer confidence, enabling fair competition and providing support and advice to business but those roles are not specifically recognised.

There is a general section on improving safety and tackling crime but the focus is drugs, serious violence and Antisocial Behaviour. There is a reference to a new legal duty in the Police, Crime and Sentencing Bill to make agencies in Violence Reduction Units work together.

Public Accounts Committee (PAC) Report – Protecting Consumers from

Unsafe Products: The Public Accounts Committee considered the National Audit Office report into product safety and on 30 September 2021 they published their report. The Government published their response in December 2021 The two key issues relating to Trading Standards and the Government responses are summarised below.

PAC recommendation: The Office for Product Safety and Standards (OPSS) should work with the Department and other parts of government to ensure the regulatory system is better coordinated. In particular, it should engage with the Department for Levelling Up Housing and Communities (DLUHC) and other relevant departments to address concerns around the long-term sustainability of the Trading Standards workforce.

Summarised Response

OPSS recognises the fundamental role that local Trading Standards services play in product safety regulation and the importance of attracting new people into the profession. OPSS provides national capability to supplement and enhance the effectiveness of local authority enforcement activity and engages with local authorities and Trading Standards bodies and their views and feedback inform OPSS' delivery. OPSS also supports Trading Standards through funding testing laboratories, training, national co-ordination and intelligence such as the Product Safety Database.

OPSS is currently clarifying its offer to Trading Standards to facilitate greater understanding and cooperation.

OPSS was instrumental in the development of a new Regulatory Compliance Officer apprenticeship with partners.

BEIS currently provides £12 million funding to National Trading Standards and £1.25 million to Trading Standards Scotland per annum to add specialist expertise and to support trading standards to enforce cases that stretch beyond local boundaries.

Local authority regulatory services are funded from each local authority's budget, in line with local decision-making, but OPSS will continue to inform central government discussions on maintaining the effectiveness of Trading Standards Services.

PAC recommendation: The Department and OPSS should evaluate the regulatory resource needed for the future of the regulatory regime. This should reflect the impacts of product checks at the UK border, the OPSS's new duties on construction products and the loss of resource at local Trading Standards services.

Summarised Response

OPSS provided £1.45 million for checks at key UK ports and borders for national product safety risks last year. OPSS will continue to work with local authorities, ports and border staff to address national product safety risks.

Department for Levelling Up, Housing and Communities is providing dedicated resource to specifically fund OPSS' construction products activity. As the national regulator for construction products, OPSS will continue to support local authorities and Trading Standards with competency and capability assistance as well as funding for their work on product safety

BEIS Parliamentary Committee Investigation: On the 1st March the Chartered Trading Standards Institute (CTSI) Chair of the Board, Steve Ruddy, provided oral evidence to a Business, Energy and Industrial Strategy (BEIS) Committee meeting as part of their investigation into post-pandemic economic growth, state aid and post-Brexit competition policy.

Others providing oral evidence were Rocio Concha, Director of Policy and Advocacy and Chief Economist at Which?; Matthew Upton, Director of Policy, Citizens Advice, and Matthew Vickers, CEO and Chief Ombudsman, Ombudsman Services.

At the hearing Steve highlighted the importance of improving consumer rights awareness for both businesses and consumers, along with stressing the key role of local trading standards services in protecting consumers, especially the most vulnerable.

<https://www.tradingstandards.uk/news-policy/news-room/2022/ctsi-provides-oral-evidence-to-business-energy-and-industrial-strategy-committee>