

**BUCKINGHAMSHIRE COUNTY COUNCIL AND
SURREY COUNTY COUNCIL**

TRADING STANDARDS JOINT MANAGEMENT COMMITTEE

DATE: 23 SEPTEMBER 2020

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 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 endorse an updated Enforcement Policy for use by the Buckinghamshire and Surrey Trading Standards Service.

The updates include amendments to:

- Acknowledge Buckinghamshire County Council's change to becoming part of a new Unitary Council for Buckinghamshire known as "Buckinghamshire Council".
- Reflect that the Service hosts the National Trading Standards Scams Team which will abide by the best practice principles found in legislation and codes that are outlined within this Enforcement Policy.
- Clarify that the decision as to disposal is made by a different officer than the investigating officer.

RECOMMENDATIONS:

It is recommended that the Trading Standards Joint Committee endorses the amended Enforcement Policy attached as Annex A.

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.
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 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.
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. 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.
7. 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.
8. 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.
9. From 1st April 2020 Buckinghamshire County Council will no longer exist and its functions will all be transferred to the new, unitary, Buckinghamshire Council. The Policy has therefore been amended to remove references to Buckinghamshire County Council and to replace them with references to "Buckinghamshire Council".
10. The updated Policy includes reference to the National Trading Standards Scams Team, which is hosted by Buckinghamshire and Surrey Trading Standards, and for which Surrey County Council is the host. This team covers the United Kingdom and is fully financed by Government grant via National Trading Standards.

11. 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 decide on how to proceed based on their own enforcement policies.
12. The National Trading Standards Scams Team's investigations are subject to the same best practice principles found in legislation and codes that are outlined within this Enforcement Policy.

CONSULTATION:

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

RISK MANAGEMENT AND IMPLICATIONS:

14. 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.
15. 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

16. This paper covers minor updates to an existing policy. There are no new additional financial implications.
17. Whilst enforcement activity may in the future be carried out under this Policy in relation to the National Trading Standards Scams Team, this work will be funded from National Trading Standards funding and not from the joint Buckinghamshire and Surrey Trading Standards budget.

Legal Implications

18. 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

19. 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:

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

Contact Officer:

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Consulted:

Annexes:

Annex A: Revised Enforcement Policy.

Sources/background papers:

- None