

**BUCKINGHAMSHIRE COUNTY COUNCIL AND  
SURREY COUNTY COUNCIL**

**TRADING STANDARDS JOINT MANAGEMENT COMMITTEE**

**DATE: 22 SEPTEMBER 2021**

**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:

- Ensure a range of financial penalties are acknowledged as potential outcomes, includes fixed penalty notices.
- Ensure all related bodies are up to date with their current titles.

**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 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. 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. The updated Policy includes reference to Fixed Penalty Notices, which the Service has traditionally been unable to issue but may be able to use for a very limited range of offences under legislation expected later this year.

## **CONSULTATION:**

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

## **RISK MANAGEMENT AND IMPLICATIONS:**

11. 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.
12. 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:**

13. This paper covers minor updates to an existing policy. There are no new additional financial implications.
14. 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:**

15. 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:**

16. 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:**

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

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### **Contact Officer:**

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### **Consulted:**

### **Annexes:**

Annex A: Updated Enforcement Policy

### **Sources/background papers:**

- None
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