

**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

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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.

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### **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
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