

# Trading Standards Enforcement Policy July 2018

Dumfries and Galloway council

Municipal Chambers

Buccleuch Street, Dumfries

DG1 2AD



This Enforcement Policy explains our approach to regulatory activity, how we deal with businesses and what happens when we find infringements of Trading Standards law. Throughout our enforcement approach, we are committed to upholding our council's priorities and in particular to build the local economy, provide the best start in life for all our children and protect our most vulnerable people.

## HOW WE FOCUS AND STRUCTURE OUR SERVICE:

Trading Standards are committed to maintaining fair trading for all businesses and to protecting the public. The Trading Standards Service covers the following areas of law:

- **Fair trading including pricing, product labelling, descriptions of goods and services, scams and doorstep crime, counterfeit goods and sales of age-restricted products as well as licensing.**
- **Product safety covering all consumer goods including toys and electrical goods.**
- **Animal health and welfare on agricultural premises and animal feeds.**
- **Accuracy of weighing and measuring equipment and ensuring that quantities of goods bought and sold are correct.**

We strive to use advice as the main method of ensuring that businesses comply with legal requirements and we believe that prevention is better than enforcement. We will inspect business premises, test products and equipment, and make test purchases where appropriate. We will also check e commerce. We give talks to consumer and business groups, and publish a range of information online, in the media and in leaflets. We will investigate consumer complaints and enquiries and referrals from other agencies.

When we receive an enquiry, we aim to respond within 5 working days. Complex matters may take longer and we will provide an update in 5 working days and thereafter keep you informed until we can give a full response. For full details of our service standards see our Customer Charter.



In order to ensure that our approaches to enforcement are both efficient and effective we:

- **Keep our regulatory activities and interventions under review to reduce burden on businesses, especially smaller ones, as much as possible.**
- **Risk assess our regulatory activities so as to target our resources where they will have greatest effect.**
- **Carry out inspections only where there is a reason for doing so, for example, as a response to intelligence or as part of our risk assessment process.**
- **Provide advice to businesses when it is necessary to do so. This may be as a result of enforcement action being taken, a pro-active campaign undertaken by the service or when it is requested by businesses.**
- **Only require data and information from businesses when it is strictly necessary for us in carrying out our regulatory activities.**
- **Ensure that enforcement action is proportionate to the risks involved and the sanctions applied are meaningful.**
- **Treat all businesses fairly and ensure that our enforcement practices are consistent.**
- **Are committed to the open provision of information and advice in a format that is accessible and easily understood.**

## **ACTION WE CAN TAKE IF THE LAW IS BROKEN**

When we suspect that there may have been an infringement of the law we will usually make some enquiries and investigate the matter. Where immediate enforcement action is necessary an explanation will be given at the time and confirmed in writing.

Dependent upon the provisions of particular legislation, we are able to take a variety of actions, including:

- **Giving compliance advice and support.**
- **Verbal or written warning.**
- **Fixed Penalty Notice.**
- **Working with partner organisations to improve levels of compliance.**
- **Suspension, seizure or voluntary surrender of goods and instigating product recalls.**
- **Statutory Enforcement Notice.**
- **Enforcement Order.**
- **Seeking a voluntary undertaking.**
- **Report cases to the Procurator Fiscal for prosecution.**

Some of the above actions provide for appeal and review. When this is the case, the affected business will receive full written details of their rights. Where English is not the first language of the representative of the business, we may be able to provide translations of our documents.

## HOW WE DECIDE ON ENFORCEMENT ACTION

Before any enforcement action is taken there will usually be opportunity for businesses to discuss the case with us. When we are considering a prosecution this will usually be at a formal interview under caution.

To ensure any action we take is proportionate and targeted only at cases in which action is needed, a number of factors will be taken into consideration, including:

- **The seriousness of any alleged offence.**
- **Any loss suffered or caused.**
- **The age and vulnerability of consumers affected.**
- **The previous history of the business.**
- **Any statutory defence available.**
- **Action taken to prevent any recurrence.**
- **Any explanation offered and, as far as the law allows, the circumstances and attitude of the business towards compliance and the investigators.**
- **What course of action will best serve the public interest.**
- **Best practice principles.**

In Scotland the Procurator Fiscal decides whether to bring a prosecution. The decision to report a case to the Procurator Fiscal is always taken by a senior manager in accordance with all relevant statutory requirements and codes and the principles of best practice e.g. the Code for Crown Prosecutors.

## COMPLIANCE WITH THE PRIMARY AUTHORITY PRINCIPLE

The Regulatory Enforcement and Sanctions Act 2008 introduced Primary Authority Partnerships. A Primary Authority is a local authority registered by the Better Regulation Delivery Office (BRDO), as having responsibility for providing advice and guidance to a particular business or organisation and this business is subject to regulation by more than one local authority.

Our staff are committed to communicate with Primary Authorities at an early stage where appropriate. If we come to a decision to take enforcement action against a business that has a Primary Authority Partnership with another regulator, we will notify the Primary Authority of the action we propose to take or have taken.

## OUR ENFORCEMENT STAFF

All our staff are bound by this policy when dealing with enforcement to ensure we work in an equitable, proportionate and consistent manner. Enforcement staff are authorised by the council to carry out this role once they have received sufficient training, knowledge and skills.

## COMPLAINTS, COMPLIMENTS AND COMMENTS ETC

If you feel that you have not received the standard of service you expect you may contact us to discuss your concerns. Should you wish to raise a formal complaint then we will advise you on this process. You can find more information about our standards of service and how to raise a complaint in our Customer Service Charter.

If you have any comments on this Enforcement Policy or would like further information then please contact us:

Phone: 030 33 33 3000

Email: [tradingstandards@dumgal.gov.uk](mailto:tradingstandards@dumgal.gov.uk)

This policy is available in large print and alternative languages on request.

